

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE NORTHERN DISTRICT OF OHIO
3 EASTERN DIVISION

4 - - -

5
6 IN RE: NATIONAL : HON. DAN A.
7 PRESCRIPTION OPIATE : POLSTER
8 LITIGATION : :
9 : :
10 APPLIES TO ALL CASES : NO.
11 : 1:17-MD-2804
12 : :
13

14 - HIGHLY CONFIDENTIAL -

15 SUBJECT TO FURTHER CONFIDENTIALITY REVIEW

16 - - -

17 January 16, 2019

18 - - -

19 Videotaped deposition of
20 KEVIN MITCHELL, taken pursuant to notice,
21 was held at the Doubletree Resort by
22 Hilton, 2400 Willow Street Pike,
23 Lancaster, Pennsylvania, beginning at
24 9:34 a.m., on the above date, before
25 Michelle L. Gray, a Registered
26 Professional Reporter, Certified
27 Shorthand Reporter, Certified Realtime
28 Reporter, and Notary Public.

29 - - -

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25
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27 Ray Moore

28
29 LITIGATION TECHNICIAN:
30 Mike Kutys

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Testimony of:

KEVIN MITCHELL

By Mr. Simmer 12, 340, 343
By Ms. McEnroe 323, 341

EXHIBITS

NO.	DESCRIPTION	PAGE
Rite Aid Mitchell-1	LinkedIn Profile, Kevin Mitchell	20
Rite Aid Mitchell-2	E-mail Thread 1/28/08 Subject, Information Needed Rite Aid OMDL_0016954	89
Rite Aid Mitchell-3	Justice News Rite Aid Corporation And Subsidiaries Agree To Pay \$5 Million 1/12/09	116

EXHIBITS (Cont'd.)

NO.	DESCRIPTION	PAGE
5	Rite Aid	
6	Mitchell-15 Cegedim Web Printout	296
7	Suspicious Order	
8	Monitoring Programs	
9	Rite Aid	
10	Mitchell-16 E-mail, 6/3/11	304
11	Subject, SOM	
12	Rite_Aid_OMDL_0050634	
13	Rite Aid	
14	Mitchell-17 E-mail Thread	311
15	11/16/10	
16	Subject, PSE in	
17	California	
18	Rite_Aid_OMDL_0050632	
19	Rite Aid	
20	Mitchell-18 E-mail Thread	315
21	12/3/10	
22	Subject, Threshold	
23	Cutbacks	
24	Rite_Aid_OMDL_0046564-65	
25	Rite Aid	
26	Mitchell-19 E-mail Thread	332
27	9/22/05	
28	Subject, DEA Audit	
29	Perryman Distribution	
30	Center	
31	Rite_Aid_OMDL_0047171-72	
32	Rite Aid	
33	Mitchell-20 E-mail Thread	338
34	9/30/09	
35	Subject, DEA Audit	
36	Rite Aid OMDL 0046772-73	

PREVIOUSLY MARKED EXHIBITS

6	NO.	DESCRIPTION
7	Rite Aid	
	Chapman-1	E-mail Thread
8		11/9/09
		Subject, Week of 11/9
9		Rite Aid OMDL 0020412

<p style="text-align: right;">Page 10</p> <p>1 - - -</p> <p>2 DEPOSITION SUPPORT INDEX</p> <p>3 - - -</p> <p>4</p> <p>5 Direction to Witness Not to Answer</p> <p>6 PAGE LINE</p> <p>7 None.</p> <p>8 Request for Production of Documents</p> <p>9 PAGE LINE</p> <p>10 None.</p> <p>11 Stipulations</p> <p>12 PAGE LINE</p> <p>13 None.</p> <p>14 Questions Marked</p> <p>15 PAGE LINE</p> <p>16 None.</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p>	<p style="text-align: right;">Page 12</p> <p>1 examined and testified as follows:</p> <p>2 - - -</p> <p>3 EXAMINATION</p> <p>4 - - -</p> <p>5 BY MR. SIMMER:</p> <p>6 Q. Good morning, Mr. Mitchell.</p> <p>7 My name is Scott Simmer. I'm here -- I'm</p> <p>8 here to ask you some questions on behalf</p> <p>9 of the plaintiffs in this matter. Let me</p> <p>10 go over some of the ground rules before</p> <p>11 we get started. First of all, I'm going</p> <p>12 to be asking you a series of questions</p> <p>13 that you will answer. The court reporter</p> <p>14 is taking down a verbatim transcript of</p> <p>15 everything that we both say. So it's</p> <p>16 important that we don't talk over each</p> <p>17 other.</p> <p>18 Do you understand?</p> <p>19 A. Yes, sir.</p> <p>20 Q. And that you have to answer</p> <p>21 verbally. You can't answer just by</p> <p>22 nodding your head. She cannot take that</p> <p>23 down on her transcript.</p> <p>24 Do you understand?</p>
<p style="text-align: right;">Page 11</p> <p>1 THE VIDEOGRAPHER: We are</p> <p>2 now on the record. My name is Ray</p> <p>3 Moore. I'm a videographer for</p> <p>4 Golkow Litigation Services.</p> <p>5 Today's date is January 16,</p> <p>6 2019, and the time is 9:34 a.m.</p> <p>7 This video deposition is</p> <p>8 being held in Lancaster,</p> <p>9 Pennsylvania, in the matter In Re</p> <p>10 National Prescription Opiate</p> <p>11 Litigation for the United States</p> <p>12 District Court for the Northern</p> <p>13 District of Ohio, Eastern</p> <p>14 Division, MDL No. 2804.</p> <p>15 The deponent is Kevin</p> <p>16 Mitchell.</p> <p>17 Counsel will be noted on the</p> <p>18 stenographic record.</p> <p>19 The court reporter is</p> <p>20 Michelle Gray and will now swear</p> <p>21 in the witness.</p> <p>22 - - -</p> <p>23 ... KEVIN MITCHELL, having</p> <p>24 been first duly sworn, was</p>	<p style="text-align: right;">Page 13</p> <p>1 A. Yes, sir.</p> <p>2 Q. You need to answer fully and</p> <p>3 accurately and verbally as I say.</p> <p>4 Do you understand?</p> <p>5 A. Yes, sir.</p> <p>6 Q. If you don't understand a</p> <p>7 question that I've asked, ask me to</p> <p>8 rephrase. I will be glad to do that.</p> <p>9 Do you understand that?</p> <p>10 A. Yes, I do.</p> <p>11 Q. And when I say you must</p> <p>12 answer truthfully, you understand that</p> <p>13 there are penalties for failing to answer</p> <p>14 a question truthfully, correct?</p> <p>15 A. Yes.</p> <p>16 MS. McENROE: Objection to</p> <p>17 form.</p> <p>18 BY MR. SIMMER:</p> <p>19 Q. And that's called perjury.</p> <p>20 Do you understand that?</p> <p>21 MS. McENROE: Objection to</p> <p>22 form.</p> <p>23 You may answer.</p> <p>24 THE WITNESS: Yes, sir.</p>

Page 14

1 BY MR. SIMMER:

2 Q. You can request a break at
3 any time. I just ask if there's a
4 question pending, you answer the question
5 before you take a break. Is that fair?

6 A. Yes, sir.

7 Q. From time to time, counsel
8 sitting next to you will be lodging
9 objections. Unless they tell you not to
10 answer, you must still answer the
11 question.

12 Do you understand?

13 A. Yes, I do.

14 Q. Is there any reason why you
15 cannot testify truthfully and accurately
16 today?

17 A. No, sir.

18 Q. Are you taking any
19 medication that would interfere with your
20 ability to answer these questions
21 truthfully?

22 A. No, sir.

23 Q. What's your understanding of
24 why you are here today?

Page 15

1 A. My understanding is the role
2 that I had while I was at Rite Aid is why
3 I'm here.

4 Q. Have you reviewed any of the
5 pleadings in this case?

6 A. No, sir.

7 Q. Did you meet with attorneys
8 representing the company in preparation
9 for your deposition?

10 A. Yes.

11 Q. Who did you meet with?

12 A. With Elisa, Matt, and Kelly.

13 Q. And when did you meet with
14 them?

15 A. Yesterday.

16 Q. Any other occasions beyond
17 yesterday?

18 A. Maybe a month and a half,
19 two months ago.

20 Q. And how long did you meet
21 with them each time?

22 A. Back, October, November
23 approximately five hours. And yesterday
24 from 9:30 until about 5:30 yesterday

Page 16

1 evening.

2 Q. Are you being compensated
3 for your time to testify today?

4 A. No, sir.

5 Q. Did you retain Morgan Lewis
6 to be your counsel in this deposition?

7 A. Yes.

8 Q. Did you sign a retainer
9 agreement retaining them to represent you
10 today?

11 A. I have not.

12 Q. Did you get some kind of a
13 letter from them that you countersigned
14 of any kind where you agreed to have them
15 represent you today?

16 A. I have not signed, no.

17 Q. Are you paying them to be
18 your counsel today?

19 A. No, sir.

20 Q. Is it your understanding
21 that they are representing you or are
22 they representing Rite Aid?

23 A. They're rep --

24 MS. McENROE: Objection to

Page 17

1 form.

2 Go ahead.

3 THE WITNESS: Representing
4 Rite Aid.

5 BY MR. SIMMER:

6 Q. Have you been involved in
7 litigation before of any kind?

8 A. I have not.

9 Q. What about as a party in,
10 say, a bankruptcy?

11 A. No, sir.

12 Q. Any criminal proceedings?

13 A. No, sir.

14 [REDACTED]
15 [REDACTED]
16 [REDACTED]
17 [REDACTED]
18 [REDACTED]
19 [REDACTED]
20 [REDACTED]
21 [REDACTED]
22 [REDACTED]
23 [REDACTED]
24 [REDACTED]

A horizontal bar chart titled 'U.S. should take action to protect the environment'. The y-axis lists age groups: 18-29, 30-49, 50-64, 65+, and 75+. The x-axis represents the percentage of respondents, ranging from 0% to 100% in 10% increments. The bars show the following approximate percentages: 18-29 (85%), 30-49 (78%), 50-64 (22%), 65+ (92%), and 75+ (25%).

Age Group	Percentage of Respondents
18-29	85%
30-49	78%
50-64	22%
65+	92%
75+	25%

1 A. Nothing.
2 Q. -- of any kind?
3 A. No, sir.
4 Q. Again, you are going to have
5 to let me finish my questions before --
6 before you start answering.
7 Do you have any hardcopy
8 files of any kind?
9 A. No, sir.
10 Q. Your understanding, the
11 company provided certain documents that
12 were from your e-mail folders and other
13 folders from your time during your
14 employment with the company?
15 A. Yes, sir.
16 Q. Did you give any direction
17 to the Rite Aid's counsel about where to
18 get your materials?
19 A. No, sir.
20 (Document marked for
21 identification as Exhibit Rite Aid
22 Mitchell-1.)
23 BY MR. SIMMER:
24 Q. The court reporter has

6 Q. Have you been a witness in
7 any kind of litigation before?
8 A. No, sir.
9 Q. Ever testified in a
10 deposition?
11 A. No, sir.
12 Q. In advance of today's
13 deposition, did the company ask for you
14 to provide it copies of any documents
15 that you still had from your Rite Aid
16 employment?
17 A. No, sir.
18 Q. Do you still have any
19 documents from your time as an employee
20 of Rite Aid?
21 A. I do not.
22 Q. Not a computer of any kind?
23 A. No, sir.
24 Q. Hard drive --

1 handed you what we've marked as Mitchell
2 Exhibit Number 1. If you can take a look
3 at that for a moment. I'll ask you some
4 questions.

5 Are you done reviewing
6 the --

7 A. Yes, sir.

8 Q. -- document?

9 Again, you -- you let me
10 finish my question before you start to
11 answer.

12 This appears to be your
13 LinkedIn page, correct?

14 A. Yes, sir.

15 Q. And did you put the content
16 in here that describes what your
17 employment history has been?

18 A. Yes, sir.

19 Q. Does it appear to be
20 accurate?

21 A. Yes, sir.

22 Q. One area it does not cover
23 is your education background. Could you
24 tell us what your education background is

Page 22

1 starting with high school?
2 A. George Washington High
3 School, 1983 graduate.
4 Q. What town is that?
5 A. Danville, Virginia. Then I
6 attended Danville Community College,
7 1983, 1984, also in Danville, Virginia.
8 [REDACTED]
9 [REDACTED]
10 [REDACTED]
11 [REDACTED]
12 [REDACTED]
13 [REDACTED]
14 [REDACTED]
15 [REDACTED]
16 [REDACTED]
17 [REDACTED]
18 [REDACTED]
19 [REDACTED]
20 [REDACTED]
21 [REDACTED]
22 A. I joined the United States
23 Marine Corps.
24 Q. How long were you in the

Page 23

1 Marine Corps?
2 A. Just shy of seven years,
3 sir.
4 Q. And what was the highest
5 rank that you achieved?
6 A. Sergeant.
7 Q. And what were your
8 specializations in the Marine Corps?
9 A. I worked in the -- I was an
10 0151 which was an administrative clerk
11 and I -- at Camp Lejeune I was the
12 administrative chief, so I was in charge
13 of any and all admin duties as required
14 by the 10th Marine Regimental
15 Headquarters.
16 Then I moved -- my last role
17 was inspector/instructor staff, I&I duty,
18 in Allentown, Pennsylvania, where I was
19 responsible for training reservists.
20 Q. You received an honorable
21 discharge?
22 A. Yes, sir.
23 Q. What's your first employment
24 after you left the Marine Corps?

Page 24

1 A. I worked as a temp for
2 Manpower for just several months before I
3 started with Frito Lay.
4 Q. So on your LinkedIn page
5 that's Exhibit 1, it references that you
6 were senior office manager at PepsiCo.
7 Is that related to Frito Lay?
8 A. Frito Lay is owned by
9 PepsiCo, yes, sir.
10 Q. And what were your
11 responsibilities?
12 A. Started as the warehouse
13 manager in Easton, Pennsylvania. Got
14 promoted, moved to Williamsport,
15 Pennsylvania. Was the operations
16 manager. Had both packaging and
17 production. And then I moved into a
18 senior operations manager role also in
19 Williamsport in charge of the
20 distribution warehousing. And then I
21 relocated to York, Pennsylvania in 1999,
22 also as a senior operations manager over
23 transportation.
24 Q. And your last date of

Page 25

1 employment at Frito Lay was what?
2 A. I think it was June of
3 2000 -- 2000.
4 Q. And why did you leave that
5 position?
6 A. I was terminated.
7 Q. For what reason?
8 A. I was moving into a role
9 other than the one that I was in, and
10 word got out that I was moving before
11 that actually happened. And so they
12 terminated me because word got out,
13 although it didn't get out by me.
14 Q. I'm not sure I entirely
15 follow. Word got out that you were
16 moving from one position to another, and
17 they fired you for that?
18 A. Correct. I was told not to
19 say anything. I did not say anything.
20 Someone else -- it got out, and I got
21 accused of saying it, so they let me go.
22 Q. And what was your next
23 position after leaving Frito Lay?
24 A. I went to work at Rite Aid

<p style="text-align: right;">Page 26</p> <p>1 in September of 2000 as pharmacy support 2 manager. 3 Q. Was there a period of time 4 where you were out of work between the 5 Frito Lay job and Rite Aid? 6 A. Yes, sir. 7 Q. How many months? 8 A. From June to September. So 9 three months. 10 Q. And what were your 11 responsibilities as pharmacy support 12 manager? 13 A. To provide liaison between 14 the pharmacy distribution centers and 15 regulatory agencies, such as DEA, FDA, 16 cigarette, tobacco, auditors from 17 different states, and process 18 improvement. 19 Q. Did you actually manage some 20 employees in that position? 21 A. I did not. 22 Q. How did you receive training 23 to -- for your new job? 24 MS. McENROE: Objection to</p>	<p style="text-align: right;">Page 28</p> <p>1 A. I don't recall. 2 Q. So he trained you how to 3 perform a distribution center audit; is 4 that correct? 5 A. A DEA audit, in particular. 6 Q. Okay. And what is it -- 7 what were you trained to do in a DEA 8 audit? 9 MS. McENROE: Objection to 10 form. Calls for a narrative. You 11 may answer. 12 THE WITNESS: Ron had a 13 checklist basically that was -- 14 that he had put together based on 15 the Code of Federal Regulations, 16 what's required by DEA. And that 17 was the document that we used to 18 audit the pharmacy control drug 19 cage and the pharmacy department. 20 BY MR. SIMMER: 21 Q. So when I asked you about 22 written materials, wouldn't that 23 checklist be one of the written materials 24 that would have been used in your</p>
<p style="text-align: right;">Page 27</p> <p>1 form. 2 MR. SIMMER: Strike that. 3 BY MR. SIMMER: 4 Q. Did you receive any training 5 for your new job? 6 A. Yes, I did. 7 Q. What kind of training did 8 you receive? 9 A. The former deputy director 10 of DEA, Ron Buzzeo, who owned his own 11 company, Buzzeo PDMA, actually came to 12 the Perryman, Maryland distribution 13 center and performed audits, training me 14 to do the same. 15 Q. So were you working out of 16 the Perryman facility at that time? 17 A. No, sir. 18 Q. Where were you working out 19 of? 20 A. Rite Aid headquarters. 21 Q. And where were they? 22 A. Camp Hill, Pennsylvania. 23 Q. Did you receive any written 24 materials as part of this training?</p>	<p style="text-align: right;">Page 29</p> <p>1 training? 2 A. That would be correct. 3 Q. So when I asked you did you 4 receive any written materials, the answer 5 would have been yes, correct? 6 MS. McENROE: Objection to 7 form. 8 THE WITNESS: Correct. 9 BY MR. SIMMER: 10 Q. Do you want to then change 11 your earlier answer? 12 A. Yes, sir. 13 Q. Who is your supervisor at 14 this time? 15 A. Neil Meischheid. 16 Q. Can you spell his last name, 17 please? 18 A. M-E-I-S-C-H-E-I-D. 19 Q. First name? 20 A. Neil, N-E-I-L. 21 Q. And who are you working for 22 at this time? 23 A. Rite Aid Headquarters 24 Corporation.</p>

Page 30	Page 32
<p>1 Q. What name is actually on 2 your paycheck that you receive? 3 A. Rite Aid Headquarters 4 Corporation. 5 Q. You didn't work for Rite Aid 6 of Maryland; is that correct? 7 A. Correct, sir. 8 Q. And Mr. Meischaid also 9 worked for Rite Aid Corporation 10 Headquarters, right? 11 A. Correct, sir. 12 Q. How long were you a pharmacy 13 support manager? 14 A. I believe it was two and a 15 half years. 16 Q. That would be from 2000 to 17 2002 or '3? 18 A. 2003, yes, sir. 19 Q. And what was your next 20 position? 21 A. Senior manager of regulatory 22 compliance. 23 Q. Were you performing 24 different duties than you had as a</p>	<p>1 remember. 2 Q. How do you spell Ms. Good's 3 last name? 4 A. G-O-O-D. 5 Q. And Mr. Caverley's last 6 name? 7 A. C-A-V-E-R-L-E-Y. 8 Q. And when you say you had 9 contact with them, what did you actually 10 do? 11 A. I don't recall. 12 Q. Was that face-to-face 13 contact? 14 A. Phone contact. 15 Q. How often did you have this 16 phone contact with these individuals? 17 A. Rarely. 18 Q. You said that you also had 19 contact with Rite Aid pharmacy 20 distribution centers; is that correct? 21 A. Yes, sir. 22 Q. What kind of contact was 23 this? 24 A. I perform mock audits at</p>
Page 31	Page 33
<p>1 pharmacist support manager? 2 A. No, sir. 3 Q. So the only change is the 4 title? 5 A. Yes, sir. 6 Q. When did you receive -- is 7 this a promotion by the way? 8 A. Yes, sir. 9 Q. When did you receive this 10 promotion? 11 A. 2003. 12 Q. Okay. And what were your 13 responsibilities as senior manager of 14 regulatory compliance? 15 A. The same as pharmacy support 16 manager. Liaison with the DEA and Rite 17 Aid pharmacy distribution centers. 18 Q. So that means that you had 19 direct contact with the DEA? 20 A. At times, yes, sir. 21 Q. And who at the DEA did you 22 have contact with? 23 A. Patricia Good, Mark 24 Caverley. They're the ones that I</p>	<p>1 their locations. 2 Q. And how often did you 3 perform these mock audits? 4 A. I would say an average of 5 one to two times annually. 6 Q. And what did you do when you 7 performed one of these mock audits? 8 A. I basically would go in 9 unannounced and ensure compliance with 10 the Code of Federal Regulations. 11 Q. And how did you do that? 12 A. With the checklist that was 13 provided from Mr. Buzzeo. 14 Q. Do you know how Mr. Buzzeo 15 developed that checklist? 16 A. I do not know. 17 Q. And that checklist that you 18 used, is that something that the company 19 had in its possession? 20 A. Yes, sir. 21 Q. Is that something that 22 others in the company also used as well, 23 besides yourself? 24 A. At times, yes, sir.</p>

Page 34

1 Q. How long was Mr. Buzzeo's
2 checklist used by the company?
3 A. Prior to my arrival, I would
4 say up to a year after I started, and
5 then I'd changed the checklist. I
6 updated it as new jurisdiction -- new
7 legislation was passed to ensure we were
8 current with current regulations.
9 Q. So the answer to my question
10 is that Mr. Buzzeo's checklist was used
11 for a period of time and then you changed
12 it; is that right?
13 A. That's correct, sir.
14 Q. When do you recall first
15 changing Mr. Buzzeo's checklist?
16 A. Early 2000s.
17 Q. You said as new legislation
18 was passed you changed the checklist to
19 ensure that you were up-to-date with
20 current regulations, correct?
21 A. Yes, sir.
22 Q. Where did you get the
23 information that you were using to base
24 your decision to make these changes?

Page 35

1 A. From the Code of Federal
2 Regulations.
3 Q. Did you receive any legal
4 training in order to read these
5 regulations to make these changes?
6 A. No, sir.
7 Q. Did you consult with any
8 other sources other than the regulations
9 themselves in order to make these
10 changes?
11 A. At times, Ron Buzzeo used to
12 also offer conferences where he would
13 provide counsel, document -- or counsel
14 or suggestions as to how we remained
15 compliant. So I may have taken a
16 suggestion from one of the conferences
17 and implemented it into our checklist.
18 Q. How often did you attend
19 these conferences?
20 A. During my tenure I probably
21 attended five or six conferences. So
22 every couple of years.
23 Q. You went every couple of
24 years?

Page 36

1 A. Yes, sir.
2 Q. And did he give written
3 materials to -- strike that.
4 Did the -- at the
5 conference, did you receive written
6 materials?
7 A. At times, yes. And at times
8 they would send via e-mail.
9 Q. And were those materials
10 then distributed to others in the
11 organization?
12 A. At times, yes.
13 Q. When was the first
14 conference that you attended?
15 A. I don't recall.
16 Q. What was the next position
17 that you held at Rite Aid?
18 A. Director of regulatory
19 compliance.
20 Q. And when did you receive
21 that title?
22 A. Two and a half years
23 afterwards, so 2005, 2006.
24 Q. What were your

Page 37

1 responsibilities?
2 A. The same.
3 Q. Just a different title?
4 A. Yes, sir.
5 Q. This is a promotion?
6 A. Yes, sir.
7 Q. And who did you report to in
8 this position?
9 A. Started with Robbie Roberson
10 who is the vice president of logistics.
11 And then in 2007 I reported to Rick
12 Chapman who is also the vice president of
13 logistics.
14 Q. So Mr. Roberson, can you
15 spell his last name, please?
16 A. R-O-B-E-R-S-O-N.
17 Q. So in this position as
18 director of regulatory compliance, as you
19 saw changes in the federal regulations,
20 again you would make changes in the
21 checklist that you would use to perform
22 your mock audits; is that correct?
23 A. If deemed appropriate, yes,
24 sir.

Page 38

1 Q. Did you ever provide copies
2 of your checklists to the company's legal
3 counsel?
4 MS. McENROE: Objection to
5 form. And I caution the witness
6 to be careful about not stepping
7 onto privileged issues and any
8 substance that you may have
9 discussed with counsel.
10 THE WITNESS: I -- I
11 honestly do not recall.
12 BY MR. SIMMER:
13 Q. Do you know whether Rite
14 Aid's legal counsel ever reviewed your
15 checklist?
16 A. I do not. I do not know.
17 Q. In your position as director
18 of regulatory compliance, did you ever
19 have any interaction with the company's
20 legal counsel?
21 A. I have had interaction, yes.
22 Q. About what should go into
23 your mock audits?
24 A. No, sir.

Page 39

1 Q. Did you have any interaction
2 with the company's compliance people?
3 A. Yes, sir.
4 Q. About the mock audits?
5 A. Define compliance people, if
6 you would, please, sir.
7 Q. Well, did the company have a
8 compliance function?
9 MS. McENROE: Objection to
10 form.
11 THE WITNESS: They had
12 several. They have an internal
13 assurance department, and we also
14 had a privacy officer that was
15 part of the government affairs
16 department. And I've had
17 interaction with each.
18 BY MR. SIMMER:
19 Q. Did the work you did as
20 director of regulatory compliance overlap
21 with any of the company's compliance
22 personnel?
23 MS. McENROE: Objection.
24 BY MR. SIMMER:

Page 40

1 Q. What they were doing?
2 MS. McENROE: Objection to
3 form.
4 THE WITNESS: Yes.
5 BY MR. SIMMER:
6 Q. Which one of the compliance
7 functions did you overlap with?
8 A. Internal assurance.
9 Q. And so did you collaborate
10 with internal assurance on the mock
11 audits and the checklists that you were
12 describing?
13 A. On or about 2009, yes.
14 Q. And who did you interact
15 with in 2009?
16 A. There were various people.
17 Steven Sheinfeld, Ashley Kido, Bryan
18 Strahan, Curt Saleme.
19 Q. Can you spell
20 Mr. Sheinfeld's last name?
21 A. S-H-E-I-N-F-I-E-L-D (sic).
22 Q. And Ms. -- I guess Ashley,
23 what was her last name?
24 A. It was Kido when I left.

Page 41

1 K-I-D-O.
2 Q. Mr. Strahan, how do you
3 spell his last name?
4 A. S-T-R-A-H-A-N.
5 Q. And Mr. Strapell, how do you
6 spell his last name?
7 A. Mr. who?
8 Q. You said Curt. I didn't get
9 his last name.
10 A. Saleme.
11 Q. Saleme. I'm sorry. How do
12 you spell his last name?
13 A. S-A-L-E-M-E.
14 Q. And where were these -- what
15 department were these people employed in?
16 A. Internal assurance.
17 Q. And is that part of the
18 corporate headquarters in Camp Hill?
19 A. Yes, sir.
20 Q. And so the work that you did
21 on these mock audits, is that something
22 that you interacted with these people in
23 internal assurance on?
24 A. On or around 2009, yes, sir.

<p style="text-align: right;">Page 42</p> <p>1 Q. What happened in 2009 that 2 you had interaction with these 3 individuals? 4 A. We collectively developed a 5 compliance -- a CSA team. I don't recall 6 what CSA stands for. But it was a 7 collaboration between the supply chain 8 department and the internal assurance 9 department to perform audits at the 12 10 distribution centers that Rite Aid had. 11 Q. CSA, is that Controlled 12 Substances Act? 13 A. CSA would stand for that, 14 yes, sir. 15 Q. So what you were looking at 16 is controlled substances; is that 17 correct? 18 MS. McENROE: Objection to 19 form. 20 THE WITNESS: Yes, sir. 21 BY MR. SIMMER: 22 Q. Do you know what prompted 23 the CSA team to be created? 24 A. It was an idea that I</p>	<p style="text-align: right;">Page 44</p> <p>1 distribution center and do -- conduct an 2 audit and actually feel comfortable that 3 they knew what they were looking for. 4 And basically every facet of the 5 operation. So again, as an example, the 6 transportation managers from one location 7 may go to a different location to conduct 8 an audit on transportation. 9 Q. So I take it that these DEA 10 coordinators would not audit the 11 distribution centers where they worked? 12 A. That's correct. 13 Q. So they would go to a 14 different distribution center and conduct 15 the audit you're talking about? 16 A. That's correct. 17 Q. The CSA team that you're -- 18 you've just mentioned, was there any 19 written product they created? 20 A. Yes, sir. 21 Q. What was this product 22 called? 23 A. There was a training that 24 was conducted, and then there was</p>
<p style="text-align: right;">Page 43</p> <p>1 actually had that we could collaborate 2 with the internal assurance group. There 3 were audits conducted by them that we 4 felt, as the supply chain team, that were 5 a little inaccurate and felt that this 6 was an opportunity to collaborate and 7 utilize experts in the field within the 8 Rite Aid distribution network to conduct 9 audits at the distribution centers to 10 again ensure that we continued to stay 11 prepared for any and all audits. 12 Q. When you say you were 13 utilizing experts in the field. Are 14 these external experts? 15 A. No, sir. 16 Q. So these were internal 17 personnel? 18 A. Rite Aid personnel, yes, 19 sir. 20 Q. And what kind of expertise 21 are you talking about that they had? 22 A. So DEA coordinators from 23 each of the buildings where appropriate. 24 So they could come into another pharmacy</p>	<p style="text-align: right;">Page 45</p> <p>1 checklists that were created as well. 2 Q. So the training that was 3 conducted, I take it there were 4 written -- written materials for that? 5 A. Yes, sir. 6 Q. What were those materials 7 called or what -- what were they? 8 MS. McENROE: Objection to 9 form. 10 THE WITNESS: I don't recall 11 the proper name for them, but... 12 BY MR. SIMMER: 13 Q. And you say there were 14 checklists created as well? 15 A. Yes, sir. 16 Q. And what were -- what were 17 those checklists called? 18 A. I don't recall the proper 19 name. 20 Q. Do you know where these -- 21 either the training materials or the 22 checklists, where they were housed at 23 Rite Aid? 24 A. The training material would</p>

<p style="text-align: right;">Page 46</p> <p>1 be housed by the internal assurance 2 group. I probably had a copy of it 3 myself. 4 The checklist was created by 5 multiple people within the headquarters 6 operation. We consolidated everything to 7 Steve Sheinfeld in internal assurance. 8 Bryan Strahan built the portfolio, the -- 9 the scorecard, if you will, that we used 10 to conduct audits. 11 Q. So you called it a checklist 12 a moment ago. Now, you are calling it a 13 scorecard or a portfolio. Which is it? 14 A. It -- it's a checklist that 15 at the conclusion of the audit provides a 16 score. 17 Q. So is it right that 18 Steven -- or Steve Sheinfeld was the 19 person who headed this effort? 20 A. I would say jointly. He -- 21 he headed it for the CSA team. 22 Q. Along with you? 23 A. Yes, sir. 24 Q. So did this fall in your</p>	<p style="text-align: right;">Page 48</p> <p>1 wall-to-wall audit at each 2 distribution center. 3 BY MR. SIMMER: 4 Q. Did you have any external 5 experts that you -- the company worked 6 with on any of these mock audit 7 activities that you've been describing? 8 A. As far as the CSA, no. We 9 did work with outside -- outside 10 counsel -- not counsel. Outside support 11 during an VAWD accreditation at some 12 point during the 2000s. 13 Q. Who was that? 14 A. I think her name was 15 Samantha Falter. She worked with Ron 16 Buzzeo group. 17 Q. Spell her last name? 18 A. F-A-L-T-E-R. 19 Q. She was part of Buzzeo, 20 correct? 21 A. Yes, sir. 22 Q. And what did she do to help 23 you in your -- your audit activities? 24 A. It wasn't audit activity,</p>
<p style="text-align: right;">Page 47</p> <p>1 actual job responsibilities, the work you 2 were doing with the CSA team? 3 A. Written responsibilities, 4 no, sir. 5 Q. So describe for us actually 6 what the CSA team did. 7 MS. McENROE: Objection to 8 form. 9 THE WITNESS: We -- the CSA 10 team would actually go out to each 11 Rite Aid distribution center. 12 We created two teams. There 13 was a red team. There was a blue 14 team. And each team was 15 designated six Rite Aid DCs to 16 audit throughout the course of the 17 year. 18 So each month there would be 19 a rotating basis where the red 20 team would audit January, March, 21 May, et cetera. 22 Blue team would be 23 alternating months. And they 24 would go -- conduct a full</p>	<p style="text-align: right;">Page 49</p> <p>1 sir. It was actually just creating a 2 standard operating procedure for VAWD 3 accreditation. 4 Q. What is VAWD accreditation? 5 A. I don't recall what VAWD 6 stands for. However, it was an 7 accreditation that the State of Indiana 8 required for legend drugs. 9 Q. So you created some standard 10 operating procedures; is that correct? 11 A. Yes, sir. 12 Q. And what were those called? 13 A. Did I create them? Let me 14 back up if I could please. 15 There were procedures in 16 place when I started. They were 17 regulatory guidelines. 18 Q. And were those SOPs? 19 A. In an essence, yes, sir. 20 Q. Were they written down? 21 A. Yes, sir. 22 Q. And what were they called? 23 A. Regulatory guidelines is 24 what I recall.</p>

<p style="text-align: right;">Page 50</p> <p>1 Q. And did those change over 2 time? 3 A. Yes, sir. 4 Q. Who was responsible for -- 5 for updating those regulatory guidelines? 6 A. That would be me. 7 Q. Throughout your time period, 8 that was your responsibility? 9 A. Yes, sir. 10 Q. And Ms. Falter helped you 11 review those procedures? 12 A. No, sir. 13 Q. I'm sorry, I thought you 14 said she helped you with the 15 accreditation that you were receiving. 16 A. That was VAWD accreditation, 17 not regulatory guidelines. That was 18 totally separate procedures. 19 Q. And what did she actually 20 do? 21 A. She drafted SOPs to be 22 compliant with the VAWD accreditation 23 needs. 24 Q. And this is accreditation</p>	<p style="text-align: right;">Page 52</p> <p>1 for accreditation. And I guess it had 2 something to do with their licensure, or 3 us being able to renew our licensure with 4 Indiana. 5 I believe it was more of a 6 formatting issue than -- than anything. 7 Q. So the SOPs covered 8 formatting only? 9 MS. McENROE: Objection to 10 form. 11 THE WITNESS: I don't recall 12 specifically. 13 BY MR. SIMMER: 14 Q. You don't recall 15 specifically what the SOPs covered? 16 A. Those SOPs, no, sir. 17 Q. What type frame was it that 18 she -- you were going through this VAWD 19 accreditation? 20 A. I don't recall. 21 Q. Okay. What was your next 22 job at Rite Aid? 23 A. Senior director of 24 regulatory compliance.</p>
<p style="text-align: right;">Page 51</p> <p>1 for the State of Indiana? 2 A. Yes, sir. 3 Q. Was it only for your 4 distribution center in Indiana? 5 A. And Perryman, Maryland. 6 Q. And why did you need that 7 for Perryman, Maryland, since it's not 8 located in Indiana? 9 A. Perryman distributed to 10 Indiana. 11 Q. And where else did Perryman 12 distribute? 13 A. I don't recall every state. 14 Q. And what kind of changes 15 resulted as a part of the accreditation 16 procedure that you were going through the 17 VAWD accreditation? 18 A. I don't recall any changes 19 that -- that took place. 20 Q. So it's unclear to me what 21 exactly she did then when she came and 22 helped you with this accreditation? 23 A. She just simply drafted a 24 different set of SOPs that VAWD required</p>	<p style="text-align: right;">Page 53</p> <p>1 Q. And when did you receive 2 that job promotion? 3 A. December 2010. 4 Q. And I called that a 5 promotion. I assumed it was a promotion. 6 A. Yes, sir. 7 Q. Did your duties change? 8 A. I assumed responsibility 9 over pharmacy returns as well as my 10 current responsibilities. 11 Q. Had someone else been doing 12 that to that point? 13 A. Yes, sir. 14 Q. So was this taking on 15 additional responsibilities for you? 16 A. Yes, sir. 17 Q. Did you have people 18 reporting to you in this position? 19 A. Yes, sir. 20 Q. How many people? 21 A. Three. 22 Q. Who were they? 23 A. Kevin Peterson. I don't 24 remember the -- the last name, Dawn. I</p>

Page 54

1 honestly do not recollect her last name.
2 And the third person I can't -- Rich
3 Handy was the third person.
4 Q. Rich Handy?
5 A. Yes, sir.
6 Q. Okay. And were you still
7 working out of Camp Hill at this time?
8 A. Yes, sir.
9 Q. And who was your supervisor?
10 A. Rick Chapman.
11 Q. Do you know who
12 Mr. Chapman's supervisor was?
13 A. Wilson Lester.
14 Q. And in turn who is
15 Mr. Lester's supervisor?
16 A. It changed so frequently,
17 I -- I don't recall.
18 Q. So what department were --
19 was this function that you were
20 performing housed in at the time?
21 A. Supply chain in Camp Hill,
22 Pennsylvania.
23 Q. And you had responsibility
24 for all the distribution centers that the

Page 55

1 [REDACTED]
2 [REDACTED]
3 [REDACTED]
4 [REDACTED]
5 [REDACTED]
6 [REDACTED]
7 [REDACTED]
8 [REDACTED]
9 [REDACTED]
10 [REDACTED]
11 [REDACTED]
12 [REDACTED]
13 [REDACTED]
14 [REDACTED]
15 [REDACTED]
16 [REDACTED]
17 [REDACTED]
18 [REDACTED]
19 [REDACTED]
20 [REDACTED]
21 [REDACTED]
22 [REDACTED]
23 [REDACTED]
24 [REDACTED]

Page 56

1 with Rite Aid.
2 Q. What was your next job at
3 Rite Aid?
4 A. That was the last job at
5 Rite Aid.
6 Q. When did you leave your
7 employment?
8 A. January 2012.
9 [REDACTED]
10 [REDACTED]
11 [REDACTED]
12 [REDACTED]
13 [REDACTED]
14 [REDACTED]
15 [REDACTED]
16 [REDACTED]
17 [REDACTED]
18 [REDACTED]
19 [REDACTED]
20 [REDACTED]
21 [REDACTED]
22 [REDACTED]
23 [REDACTED]
24 [REDACTED]

Page 57

1 [REDACTED]
2 [REDACTED]
3 [REDACTED]
4 [REDACTED]
5 MR. SIMMER: It's a
6 completely improper objection.
7 MS. McENROE: Okay. We can
8 call Special Master Cohen if you'd
9 like.
10 BY MR. SIMMER:
11 Q. How did -- how did --
12 MR. SIMMER: You can.
13 MS. McENROE: Yeah, we can
14 go off the record and call the
15 special master.
16 BY MR. SIMMER:
17 Q. How did these personal --
18 MS. McENROE: We're going to
19 stop the deposition and call the special
20 master.
21 THE VIDEOGRAPHER: The time
22 is now 10:14 a.m. We're going off
23 the record.
24 (Whereupon, a discussion was

Page 58

1 held off the record.)
2 THE VIDEOGRAPHER: The time
3 is now 10:17 a.m. We are back on
4 the record.
5 BY MR. SIMMER:
6 Q. I'm going to withdraw the
7 last question. Was there anything about
8 the job itself that you felt that you
9 could no longer perform?
10 A. No, sir.
11 Q. And when you left your
12 employment at Rite Aid, what did you do
13 next?
14 A. My next position was general
15 manager at CEVA Logistics.
16 Q. Was there a gap in
17 employment between the job you had at
18 Rite Aid and the job that you had at CEVA
19 Logistics?
20 A. Yes, sir.
21 Q. How long?
22 A. Just shy of four months.
23 Q. What were you doing at CEVA
24 Logistics?

Page 59

1 A. And general manager of a
2 third-party logistics firm, supporting
3 the startup of a Microsoft business.
4 Q. And where was that job?
5 A. In Carlisle, Pennsylvania.
6 Q. And you left that job after
7 six months, you say?
8 A. Thereabouts, yes, sir.
9 Q. Why did you leave that job?
10 A. I resigned to assume a
11 position with Crescent Park.
12 Q. Crescent Park is the name of
13 the company?
14 A. Yes, sir.
15 Q. And what were you doing
16 there?
17 A. General manager as well.
18 Q. In Mechanicsburg,
19 Pennsylvania, correct?
20 A. Yes, sir.
21 Q. How long did you hold that
22 position?
23 A. Until the end of May, June
24 of 2013.

Page 60

1 [REDACTED]
2 [REDACTED]
3 [REDACTED]
4 [REDACTED]
5 [REDACTED]
6 [REDACTED]
7 [REDACTED]
8 [REDACTED]
9 [REDACTED]
10 [REDACTED]
11 [REDACTED]
12 [REDACTED]
13 [REDACTED]
14 [REDACTED]
15 Q. And what was your next
16 position after that?
17 A. General manager with my
18 current employer, 48forty Solutions. And
19 just to clarify, they've had -- that's
20 the third name since I've worked there.
21 It started out as IFCO Systems, then
22 became CHEP Recycled, and now 48forty
23 Solutions.
24 Q. What were your

Page 61

1 responsibilities there?
2 A. Oversight over a pallet
3 recycling manufacturing company, and I'm
4 in charge of both purchasing recycled
5 pallets and the sale of recycled pallets
6 to retailers throughout the country.
7 Q. So your responsibility as
8 general manager is for the entire
9 company?
10 A. For the entire --
11 Pennsylvania, for Biglerville,
12 Pennsylvania.
13 Q. But the pallets themselves
14 are being sold to retailers throughout
15 the United States?
16 A. Yes.
17 Q. And your responsibility is
18 only for Pennsylvania?
19 A. Pennsylvania, Maryland. We
20 can ship anywhere in the U.S.
21 [REDACTED]
22 [REDACTED]
23 [REDACTED]
24 [REDACTED]

Page 62

Page 64

A horizontal bar chart titled 'U.S. should take action to address climate change' showing the percentage of respondents who believe the U.S. should take action to address climate change. The chart is broken down by age group (18-29, 30-49, 50-69, 70+) and gender (Male, Female). The y-axis lists the demographic groups, and the x-axis shows the percentage from 0 to 100. The bars are colored blue for Male and orange for Female.

Age Group	Gender	
18-29	Male	~45%
	Female	~95%
30-49	Male	~55%
	Female	~65%
50-69	Male	100%
	Female	~25%
70+	Male	~45%
	Female	~95%
Total	Male	~45%
	Female	~85%

15 MR. SIMMER: Can we go off
16 the record for a minute.

17 THE VIDEOGRAPHER: The time
18 now is 10:22 a.m. We are going
19 off the record.

20 (Short break.)

21 THE VIDEOGRAPHER: The time
22 is now 10:42 a.m. We are back on
23 the record.

24 BY MR. SIMMER:

Response	Percentage
Yes, the current system is the best way to run the country	55%
No, the current system is not the best way to run the country	45%

4 Before our break, you
5 mentioned that there was a corporate
6 assurance department; is that right?

7 A. Internal assurance
8 department, yes, sir, at the corporate
9 office.

10 Q. That was its formal title
11 was the, internal assurance department?

12 A. Internal assurance or
13 internal audit. Either one. I'm not --
14 I'm not sure.

15 Q. And while it -- while you
16 worked at Rite Aid, was that its name
17 throughout that time period?

18 A. As far as I recall, yes,
19 sir.

20 Q. What were the specific
21 functions as you know it for the internal
22 assurance department?

MS. McENROE: Objection to
form.

[illegible]

Page 63

Page 65

1 THE WITNESS: To conduct
2 independent audits of the
3 distribution centers. I know, as
4 it relates to the supply chain
5 group, that's what they did.

6 As far as their other jobs,
7 I have no idea.

⁸ BY MR. SIMMER:

9 Q. It sounds like that those
10 functions overlapped with what you were
11 doing, correct?

12 A. They could, yes.

13 Q. Had the responsibilities of
14 the internal assurance department changed
15 over time while you worked at the
16 company?

MS. McENROE: Objection to
form.

19 THE WITNESS: I don't recall
20 them being involved with the
21 distribution centers until later
22 in the 2000s, 2007, 2008 time
23 frame.

24 BY MR. SIMMER:

<p style="text-align: right;">Page 66</p> <p>1 Q. So after that time period, 2 they were responsible for audits of 3 distribution centers, correct? 4 MS. McENROE: Objection to 5 form. 6 THE WITNESS: They could 7 have been all along. That's just 8 what I remember. 9 BY MR. SIMMER: 10 Q. Did they have responsibility 11 for all of the Rite Aid entities? 12 MS. McENROE: Objection to 13 form. 14 BY MR. SIMMER: 15 Q. Strike that. Let me 16 rephrase. 17 Did the corporate assurance 18 department or the internal assurance 19 department have responsibility for all of 20 the Rite Aid distribution centers 21 following that time period? 22 MS. McENROE: Objection to 23 form. 24 THE WITNESS: I do not know.</p>	<p style="text-align: right;">Page 68</p> <p>1 A. Tony Bellezza. 2 Q. Can you spell his last name, 3 please? 4 A. I will attempt. 5 B-E-L-L-E-Z-Z-A. 6 Q. Is he still working for the 7 company as far as you know? 8 A. I do not know. 9 Q. And did he hold that title 10 or was he -- strike that. 11 Was he head of the internal 12 assurance department throughout the time 13 period that you worked at the company? 14 A. As far as I can recall, yes. 15 Q. Did he hold that position 16 when you left the company? 17 A. Yes. 18 Q. Help us understand. It 19 looks like they overlap with you pretty 20 substantially. It seems like it would be 21 a confusing structure. Were they -- was 22 that function completely separate from 23 yours or are you basically working doing 24 the same responsibilities?</p>
<p style="text-align: right;">Page 67</p> <p>1 BY MR. SIMMER: 2 Q. Did they have any 3 responsibility for suspicious order 4 monitoring? 5 MS. McENROE: Objection to 6 form. 7 THE WITNESS: I do not know. 8 BY MR. SIMMER: 9 Q. Who would we need to talk to 10 that would clarify what their 11 responsibilities were? 12 A. One of the associates in 13 internal assurance. 14 Q. Where was the internal 15 assurance department housed within the 16 company structure? 17 A. At headquarters, the Annex 18 building in Camp Hill, Pennsylvania. 19 Q. I'm talking about the org 20 chart. What department were they part 21 of? 22 A. That, I do not know. 23 Q. Do you know who the head of 24 the internal assurance department was?</p>	<p style="text-align: right;">Page 69</p> <p>1 MS. McENROE: Objection to 2 form. 3 THE WITNESS: Completely 4 different functions. 5 BY MR. SIMMER: 6 Q. Based on your work as senior 7 director, supply chain regulatory 8 compliance, is it fair to say that you're 9 familiar with the term "diversion" in the 10 context of controlled substances? 11 A. Yes, sir. 12 Q. What does diversion mean in 13 your own words? 14 A. Diverting from a normal 15 course of action. 16 Q. And based on your knowledge 17 and experience, you'd agree with me Rite 18 Aid had an obligation to prevent 19 diversion? 20 MS. McENROE: Objection to 21 form. 22 THE WITNESS: Yes, sir. 23 BY MR. SIMMER: 24 Q. As senior director of supply</p>

<p style="text-align: right;">Page 70</p> <p>1 chain regulatory compliance, you 2 understand that the DEA required that 3 Rite Aid prevent diversion? 4 MS. McENROE: Objection to 5 form. 6 THE WITNESS: Yes, sir. 7 BY MR. SIMMER: 8 Q. And based on your work and 9 experience, you are familiar with the 10 concept of a "suspicious order" in the 11 context of controlled substances? 12 MS. McENROE: Objection to 13 form. 14 THE WITNESS: Yes, sir. 15 BY MR. SIMMER: 16 Q. And what does it mean? 17 A. Suspicious would be 18 anything, just that, suspicious. 19 Q. Can you clarify what you 20 mean by a suspicious order? 21 A. Anything abnormal. 22 Q. Where did you gain your 23 understanding about what a suspicious 24 order was?</p>	<p style="text-align: right;">Page 72</p> <p>1 Rite Aid, correct? 2 A. That's correct, sir. 3 Q. Did you have any additional 4 training with Mr. Buzzeo up until those 5 conferences you talked about, that you 6 attended later? 7 A. Yes. 8 Q. And what kind of training 9 did you receive from Mr. Buzzeo in that 10 interval in between? 11 A. Just the exact same things. 12 Q. He came back? 13 A. Yes, sir. 14 Q. And trained you 15 additionally? 16 A. We worked together 17 additionally, yeah. So I can give you an 18 example. When I first got there, in -- 19 well, 2000 -- in November 2000 Ron and I 20 performed the training. He performed the 21 training with me. The results were what 22 they were. 23 And I invited him to come 24 back in six months and do a re-audit and,</p>
<p style="text-align: right;">Page 71</p> <p>1 A. Through training with Ron 2 Buzzeo. 3 Q. Would that be only at the 4 conferences that you attended? 5 A. It really started when Ron 6 came to train me two months into my 7 employment. 8 Q. Back in 2000? 9 A. Yes, sir. 10 Q. How extensive was that 11 training with Mr. Buzzeo? 12 A. I like to think it was 13 pretty extensive. We spent three or 14 four days together going through his 15 checklist, not just auditing, but 16 explaining really what the spirit of the 17 regulations mean, and then how to ensure 18 that, you know, as a registrant that they 19 were doing the things needed to do to be 20 compliant with all the rules and 21 regulations set forth. 22 Q. So let me clarify this. You 23 received three or four days of training 24 in 2000 when you first began working for</p>	<p style="text-align: right;">Page 73</p> <p>1 you know, give us a chance to treat 2 our -- address any deficiencies so that 3 six months from now when you come back, 4 you should see a different story. 5 So four months after the 6 fact I called Ron and invited him back 7 and told him we were ready. 8 Ron came back a week or two 9 after our phone call and conducted 10 another audit. He conducted the audit 11 with me there, again asking questions, 12 trying to continue to learn and found no 13 deficiencies. 14 Q. So what was he auditing when 15 he came back the second time? 16 A. Could you rephrase? I'm 17 sorry. 18 Q. You said he conducted a 19 re-audit. What was he actually auditing? 20 A. The control drug cage and 21 all the processes, the SOPs, biennial 22 inventories, you name at -- 23 Q. At Perryman? 24 A. -- accountability -- yes,</p>

Page 74

1 sir, at Perryman.
2 Q. Okay. So when he first
3 trained you in 2000, he actually
4 conducted an audit of Perryman at that
5 time?
6 A. Yes, sir.
7 Q. I take it that that wasn't a
8 positive audit?
9 A. That would be correct, sir.
10 Q. What were the deficiencies
11 that you recall he noted in -- in 2000?
12 A. I -- I don't recall
13 individual.
14 Q. Was there a written report
15 that he prepared?
16 A. Yes, sir.
17 Q. And is that something that
18 the company retained in its records as
19 far as you know?
20 A. I would assume but I do not
21 know for sure.
22 Q. When he came back, I guess
23 was it four months or six months later?
24 A. Four months.

Page 75

1 Q. Did he prepare a report at
2 that time?
3 A. Yes, sir.
4 Q. And again, that was only of
5 the Perryman facility, correct?
6 A. That's correct.
7 Q. And specifically in regard
8 to controlled substances, correct?
9 A. That's correct.
10 Q. And he found, you said no
11 deficiencies, correct?
12 A. Correct.
13 Q. Do you know what he actually
14 did in conducting that audit?
15 MS. McENROE: Objection to
16 form.
17 THE WITNESS: He basically
18 did the exact same thing the DEA
19 audits -- or DEA agents did later
20 in my tenure. Did a very
21 comprehensive audit of the entire
22 control drug cage, security,
23 records, et cetera.
24 BY MR. SIMMER:

Page 76

1 Q. Did he conduct any audits
2 of -- at other distribution centers?
3 MS. McENROE: Objection to
4 form.
5 THE WITNESS: I don't know
6 for sure if he himself did. I
7 know his company did.
8 BY MR. SIMMER:
9 Q. So it's your belief that --
10 that others with Buzzeo conducted audits
11 at the distribution centers?
12 MS. McENROE: Objection to
13 form.
14 THE WITNESS: I believe that
15 would be correct.
16 BY MR. SIMMER:
17 Q. Do you know when they did
18 this?
19 A. That I do not know.
20 Q. Do you know who it was at
21 Buzzeo that did these audits of the other
22 distribution centers?
23 A. I recall one name, Ron
24 Garribato.

Page 77

1 Q. You better spell that name.
2 A. G-A-R-R-I-B-A-T-O.
3 Q. And do you know what his
4 title was at Buzzeo?
5 A. I do not.
6 Q. Do you know when he did
7 this?
8 A. I can recall early 2000s.
9 Q. And which distribution
10 center did he audit?
11 A. Woodland, California.
12 Q. Why was that one audited?
13 A. It was just, again, a mock
14 audit.
15 Q. And throughout the time
16 period when you worked at the company,
17 you undertook these same kind of mock
18 audits, correct?
19 A. Yes, sir.
20 Q. And you did essentially the
21 same kind of -- of procedures as
22 Mr. Buzzeo had trained you, correct?
23 A. That's correct.
24 Q. Did you actually write up

Page 78

1 reports after you did each of these mock
2 audits?
3 A. I honestly do not recall.
4 Q. Did you put anything in
5 writing when you -- after you conducted a
6 mock audit at a distribution center?
7 A. I may have given the
8 checklist to them that I had used during
9 my time there. It's just been so many
10 years ago, I just honestly don't remember
11 all the details.
12 Q. So how long was the
13 checklist that you used?
14 A. I don't recall how many
15 pages.
16 Q. Was there a scoring system
17 of any kind in the checklist?
18 A. Initially, no.
19 Q. There was later a scoring
20 system of some kind used?
21 A. The -- the certified
22 self-assessment that we were talking
23 about earlier with internal assurance,
24 that did have a scoring system with it.

Page 79

1 Q. And when did you put in
2 place that scoring system?
3 A. Say approximately 2009.
4 Q. Was that in conjunction with
5 the -- the changes that you talked about
6 earlier with the controlled substances
7 team?
8 MS. McENROE: Objection to
9 form.
10 THE WITNESS: Would --
11 MR. SIMMER: Strike that.
12 BY MR. SIMMER:
13 Q. Was that in conjunction with
14 the changes you'd talked about earlier
15 with the CSA team?
16 A. Yes, sir.
17 Q. That you put the scoring
18 system into place as part of the changes
19 that the CSA team had implemented,
20 correct?
21 A. That's correct.
22 Q. Based on your work as senior
23 director supply chain regulatory
24 compliance, you'd agree that Rite Aid had

Page 80

1 an obligation to report any suspicious
2 orders to the DEA, right?
3 MS. McENROE: Objection to
4 form.
5 THE WITNESS: Yes, sir.
6 BY MR. SIMMER:
7 Q. And did that, in fact,
8 happen, that the company reported any
9 suspicious orders to the DEA while you
10 were the senior director supply chain
11 regulatory compliance?
12 MS. McENROE: Objection to
13 form.
14 THE WITNESS: I'm not aware
15 of any suspicious orders during my
16 tenure.
17 BY MR. SIMMER:
18 Q. That wasn't my question.
19 Were there any reports to the DEA?
20 A. Not that I'm aware of.
21 Q. Based on your work as senior
22 director supply chain regulatory
23 compliance, you'd agree that Rite Aid had
24 an obligation not to ship any suspicious

Page 81

1 orders, right?
2 MS. McENROE: Objection to
3 form.
4 THE WITNESS: Yes, sir.
5 BY MR. SIMMER:
6 Q. Are you aware of any
7 instance when the company refused to ship
8 what it felt was a suspicious order?
9 MS. McENROE: Objection to
10 form.
11 THE WITNESS: I'm not aware,
12 no, sir.
13 BY MR. SIMMER:
14 Q. So that never happened as
15 far as you know?
16 A. As far as I know.
17 Q. Based on your work as senior
18 director supply chain regulatory
19 compliance, do you know what the DEA red
20 flags for diversion are?
21 MS. McENROE: Objection to
22 form.
23 THE WITNESS: Could you ask
24 the question a different way

<p style="text-align: right;">Page 82</p> <p>1 please?</p> <p>2 BY MR. SIMMER:</p> <p>3 Q. Do you know what the term --</p> <p>4 are you familiar with the term "red flags</p> <p>5 of diversion"?</p> <p>6 A. I am not.</p> <p>7 Q. Never heard of that before?</p> <p>8 A. I have not.</p> <p>9 Q. You never heard the DEA's</p> <p>10 red flags for potential diversion?</p> <p>11 MS. McENROE: Objection to</p> <p>12 form. Asked and answered.</p> <p>13 THE WITNESS: I have not.</p> <p>14 BY MR. SIMMER:</p> <p>15 Q. So I take it that you in</p> <p>16 your position as senior director supply</p> <p>17 chain regulatory compliance did nothing</p> <p>18 to monitor any of the DEA red flags for</p> <p>19 diversion, correct?</p> <p>20 MS. McENROE: Objection to</p> <p>21 form.</p> <p>22 THE WITNESS: That's</p> <p>23 inaccurate.</p> <p>24 BY MR. SIMMER:</p>	<p style="text-align: right;">Page 84</p> <p>1 form. Misstates testimony.</p> <p>2 THE WITNESS: I would say</p> <p>3 "red flag" being the keyword,</p> <p>4 again not familiar with the term.</p> <p>5 So I would say no.</p> <p>6 BY MR. SIMMER:</p> <p>7 Q. During your time as senior</p> <p>8 director supply chain regulatory</p> <p>9 compliance, Rite Aid distributed</p> <p>10 controlled substances, correct?</p> <p>11 A. Yes, sir.</p> <p>12 Q. And it distributed these</p> <p>13 controlled substances only to Rite Aid</p> <p>14 stores, correct?</p> <p>15 A. That is correct.</p> <p>16 Q. During your time as a Rite</p> <p>17 Aid employee, did it have a suspicious</p> <p>18 order monitoring program?</p> <p>19 A. Yes, sir.</p> <p>20 Q. Can you describe what that</p> <p>21 program was?</p> <p>22 A. It was to -- I don't recall</p> <p>23 the exact verbiage. But it was basically</p> <p>24 to identify anything that seemed</p>
<p style="text-align: right;">Page 83</p> <p>1 Q. How is it inaccurate?</p> <p>2 A. We had policies and</p> <p>3 procedures in place that -- for excessive</p> <p>4 order monitoring.</p> <p>5 Q. Okay. I asked you a moment</p> <p>6 ago if you were familiar with the DEA red</p> <p>7 flags for diversion and you said you were</p> <p>8 not, correct?</p> <p>9 A. I have not heard the term</p> <p>10 "red flag," that's correct.</p> <p>11 Q. So I then asked you if you</p> <p>12 had undertaken any monitoring of the red</p> <p>13 flags for diversion. And you said that</p> <p>14 you feel like you had.</p> <p>15 A. Monitoring to diversion,</p> <p>16 yes. Monitoring red flags, I would have</p> <p>17 to say no. Again, I'm not familiar --</p> <p>18 I'm sorry, not familiar -- not familiar</p> <p>19 with the term.</p> <p>20 Q. So the answer to my</p> <p>21 question, did you do any monitoring of</p> <p>22 the red flags of diversion, the answer</p> <p>23 would be no; isn't that right?</p> <p>24 MS. McENROE: Objection to</p>	<p style="text-align: right;">Page 85</p> <p>1 suspicious, out of the ordinary. And if</p> <p>2 a suspicious order was detected, the</p> <p>3 registrant would then call the government</p> <p>4 affairs department at the corporate</p> <p>5 headquarters in which they would report</p> <p>6 directly to DEA.</p> <p>7 Q. Let's clarify what you mean</p> <p>8 by -- who is the registrant in -- in what</p> <p>9 you just described?</p> <p>10 A. So Rite Aid of Maryland in</p> <p>11 Perryman's case.</p> <p>12 Q. And if Rite Aid of Maryland</p> <p>13 became aware of a suspicious order, they</p> <p>14 would call government affairs at -- at</p> <p>15 corporate headquarters and they would</p> <p>16 report directly to the DEA, correct?</p> <p>17 A. Correct.</p> <p>18 Q. Did that ever happen to your</p> <p>19 knowledge?</p> <p>20 A. Not that I'm aware of.</p> <p>21 Q. Explain what you mean by any</p> <p>22 suspicious order as being out of the</p> <p>23 ordinary, what did you mean by that term?</p> <p>24 A. Suspicious to me means</p>

Page 86

1 anything that's -- that is outside of a
2 normal pattern.
3 Q. And how would you determine
4 that an order was out of the ordinary
5 pattern?
6 MS. McENROE: Objection to
7 form.
8 THE WITNESS: It could be
9 the size of the order. It could
10 be the frequency of the order.
11 That to me would get my attention.
12 BY MR. SIMMER:
13 Q. And what would be a size of
14 an order that you would have deemed to
15 have been suspicious?
16 MS. McENROE: Objection to
17 form.
18 THE WITNESS: I don't
19 personally know. I didn't work at
20 the distribution center.
21 BY MR. SIMMER:
22 Q. But it was your
23 responsibility to identify suspicious
24 orders, correct?

Page 87

1 MS. McENROE: Objection to
2 form.
3 THE WITNESS: It was the
4 distribution center's
5 responsibility to identify
6 suspicious orders.
7 BY MR. SIMMER:
8 Q. What was your role in
9 identifying suspicious orders?
10 A. Again, I didn't work at the
11 distribution center. So I would not have
12 had visibility over suspicious orders, or
13 any orders for that matter.
14 My role would have been to
15 have had a policy or procedure in place.
16 Q. And what did the policy and
17 procedure say was a suspicious order?
18 A. I don't recall the verbiage.
19 Q. What about the frequency of
20 an order would make it suspicious?
21 MS. McENROE: Objection to
22 form.
23 THE WITNESS: If I were at a
24 DC and if I were seeing an order

Page 88

1 every day in large quantities for
2 the same item, again, that
3 would -- that would get my
4 attention.
5 BY MR. SIMMER:
6 Q. Did that ever happen?
7 A. Not that I recall.
8 Q. So during the time that you
9 worked for the company, you have no
10 recollection of anytime there have been
11 an order that was identified as being
12 suspicious because it was too frequent,
13 right?
14 A. I do not.
15 Q. At any time while you worked
16 for the company as the director of supply
17 chain regulatory compliance, were there
18 any orders that were deemed to have been
19 suspicious that were reported to the DEA
20 or to government affairs?
21 MS. McENROE: Objection to
22 form.
23 THE WITNESS: Not that I'm
24 aware of.

Page 89

1 [REDACTED]
2 [REDACTED]
3 [REDACTED]
4 [REDACTED]
5 [REDACTED]
6 [REDACTED]
7 [REDACTED]
8 [REDACTED]
9 [REDACTED]
10 [REDACTED]
11 [REDACTED]
12 [REDACTED]
13 [REDACTED]
14 [REDACTED]
15 [REDACTED]
16 [REDACTED]
17 [REDACTED]
18 [REDACTED]
19 [REDACTED]
20 [REDACTED]
21 [REDACTED]
22 [REDACTED]
23 [REDACTED]
24 [REDACTED]

Page 90

[REDACTED]

Page 92

[REDACTED]

Page 91

[REDACTED]

Page 93

[REDACTED]

Page 94

[REDACTED]

Page 96

[REDACTED]

Page 95

[REDACTED]

Page 97

[REDACTED]

A horizontal bar chart titled 'U.S. should take action to address climate change'. The y-axis lists age groups: 18-29, 30-49, 50-69, 70+, and 'All adults'. The x-axis shows percentages from 0 to 100. For each age group, there are two bars: a blue bar for 'Total' and a red bar for 'Men'. The data is as follows:

Age Group	Total (%)	Men (%)
18-29	92	88
30-49	88	85
50-69	85	82
70+	82	78
All adults	85	82

²⁴ Bottles of 1,000 tablets, maximum of five

A horizontal bar chart titled 'U.S. should take action to address climate change'. The y-axis lists age groups: 18-29, 30-49, 50-64, 65+, and 'All adults'. The x-axis represents the percentage of respondents, ranging from 0 to 100 in increments of 10. For each age group, there are two bars: a blue bar for 'Total' and a red bar for 'Men'. The data is as follows:

Age Group	Total (%)	Men (%)
18-29	87	87
30-49	82	82
50-64	78	78
65+	73	73
All adults	78	78

Page 102

[REDACTED]

Page 104

[REDACTED]

Page 103

[REDACTED]

vernment

²⁴ relations was doing, right?

Page 105

[REDACTED]

Page 106

[REDACTED]

Page 108

[REDACTED]

Page 107

[REDACTED]

Page 109

[REDACTED]

[REDACTED]

Page 112

1 get a good chance to take a quick
2 comfort break, that would be
3 appreciated on this side.
4 MR. SIMMER: Can we just go
5 a little bit further?
6 MS. McENROE: Yeah. Finish
7 your line of questioning, that
8 would be fine.

[REDACTED]

Page 111

[REDACTED]

24 MS. McENROE: Scott, if we

Page 113

[REDACTED]

Page 114

[REDACTED]

Page 116

[REDACTED]

6 THE VIDEOGRAPHER: The time
7 is now 11:25 a.m. We're going off
8 the record.
9 (Short break.)
10 THE VIDEOGRAPHER: The time
11 is now 11:42 a.m. We are back on
12 the record.
13 (Document marked for
14 identification as Exhibit Rite Aid
15 Mitchell-3.)
16 BY MR. SIMMER:
17 Q. Sir, we're going to -- I
18 hand you what we marked as Mitchell
19 Exhibit 3. I'll identify it for the
20 record as a press release issued by the
21 Department of Justice on January 12th,
22 2009. It is a two-page document. We
23 printed the exhibit front and back. So
24 just take a moment to look at that.

Page 115

[REDACTED]

Page 117

1 A. Okay.
2 Q. Do you see where the
3 headline to this press release, it says,
4 "Rite Aid Corporation and subsidiaries
5 agree to pay \$5 million in civil
6 penalties to resolve violations in eight
7 states of the Controlled Substances Act"?
8 A. Yes, sir.
9 Q. And this would have occurred
10 during the time that you were working for
11 the company; is that correct?
12 A. Yes, sir.
13 Q. Do you recall this
14 settlement?
15 A. I do not.
16 Q. Do you recall whether this
17 settlement had any impact on your work as
18 the director of supply chain regulatory
19 compliance?
20 MS. McENROE: Objection to
21 form.
22 THE WITNESS: No, sir.
23 After reading this, it's pretty
24 clear it was 100 percent related

<p style="text-align: right;">Page 118</p> <p>1 to the Rite Aid stores.</p> <p>2 BY MR. SIMMER:</p> <p>3 Q. Okay. Look at the first</p> <p>4 bullet in the middle of the page, on Page</p> <p>5 1. Do you see where it says, "At</p> <p>6 pharmacies in Kentucky and New York, Rite</p> <p>7 Aid knowingly filled prescriptions for</p> <p>8 controlled substances that were not</p> <p>9 issued for a legitimate medical purpose</p> <p>10 pursuant to a valid physician-patient</p> <p>11 relationship"?</p> <p>12 A. Yes, sir.</p> <p>13 Q. So would you agree with me</p> <p>14 that when it says that it had no</p> <p>15 legitimate medical purpose, those are</p> <p>16 prescriptions for which there was no</p> <p>17 legitimate need?</p> <p>18 MS. McENROE: Objection to</p> <p>19 form.</p> <p>20 THE WITNESS: No. I</p> <p>21 wouldn't necessarily say that.</p> <p>22 BY MR. SIMMER:</p> <p>23 Q. And why wouldn't you?</p> <p>24 A. They may be needed for</p>	<p style="text-align: right;">Page 120</p> <p>1 form.</p> <p>2 THE WITNESS: Yes. Yes, it</p> <p>3 would be.</p> <p>4 BY MR. SIMMER:</p> <p>5 Q. And the orders that the</p> <p>6 pharmacy makes of controlled substances,</p> <p>7 those would be to fill prescriptions,</p> <p>8 right?</p> <p>9 A. That would be correct.</p> <p>10 Q. And with regard to these</p> <p>11 specific pharmacies, when they say there</p> <p>12 was no legitimate medical purpose, that's</p> <p>13 coming out of their inventory of the</p> <p>14 shipments they had gotten from the</p> <p>15 Perryman facility, right?</p> <p>16 MS. McENROE: Objection to</p> <p>17 form.</p> <p>18 THE WITNESS: Yeah, it could</p> <p>19 be, certainly, or it could have</p> <p>20 come from McKesson.</p> <p>21 BY MR. SIMMER:</p> <p>22 Q. In either event, those</p> <p>23 shipments were sent to a Rite Aid</p> <p>24 pharmacy, right?</p>
<p style="text-align: right;">Page 119</p> <p>1 another patient, but maybe not in the</p> <p>2 example that they're giving.</p> <p>3 Q. But with regard to those</p> <p>4 specific prescriptions, when it says here</p> <p>5 that there was no legitimate medical</p> <p>6 purpose, wouldn't it be true that there</p> <p>7 was no need to even have those</p> <p>8 prescriptions issued in the first place?</p> <p>9 MS. McENROE: Objection to</p> <p>10 form.</p> <p>11 THE WITNESS: No. Again, I</p> <p>12 would disagree.</p> <p>13 BY MR. SIMMER:</p> <p>14 Q. And again, what is your</p> <p>15 disagreement with that?</p> <p>16 A. I don't know how dispensing</p> <p>17 a script has anything to do with on-hand</p> <p>18 inventory at store level.</p> <p>19 Q. Nothing at all?</p> <p>20 A. Right.</p> <p>21 Q. So when a pharmacy actually</p> <p>22 has inventory, isn't that inventory being</p> <p>23 used to fill prescriptions?</p> <p>24 MS. McENROE: Objection to</p>	<p style="text-align: right;">Page 121</p> <p>1 MS. McENROE: Objection to</p> <p>2 form.</p> <p>3 THE WITNESS: Correct.</p> <p>4 BY MR. SIMMER:</p> <p>5 Q. And you're disputing the</p> <p>6 fact that when it says no legitimate</p> <p>7 medical purpose, whether that is coming</p> <p>8 out of the inventory for which there is</p> <p>9 no legitimate need as well, right?</p> <p>10 MS. McENROE: Objection to</p> <p>11 form.</p> <p>12 THE WITNESS: I wouldn't</p> <p>13 have any insight as to what</p> <p>14 inventory -- what inventory</p> <p>15 balances a store would be required</p> <p>16 to have. So I guess the point</p> <p>17 that I was trying to make is that</p> <p>18 I don't think it's out of the</p> <p>19 ordinary for a store to have, for</p> <p>20 example, ten bottles of a</p> <p>21 particular drug if there are going</p> <p>22 to be scripts sold for that drug.</p> <p>23 I would have absolutely no</p> <p>24 way of knowing the</p>

Page 122

1 doctor-physician-pharmacy-patient
2 relationship. I mean, what
3 happens at the store level, I have
4 no knowledge or observation of.
5 BY MR. SIMMER:
6 Q. So when a store, and in this
7 example these stores in Kentucky and New
8 York, issued prescriptions for which
9 there was no legitimate medical purpose,
10 would you agree with me that they would
11 need to replenish their stock with
12 additional controlled substances?
13 MS. McENROE: Objection to
14 form.
15 THE WITNESS: Replenishment
16 is based on sales, so yes.
17 BY MR. SIMMER:
18 Q. And so in that instance, if
19 those sales were reflective of
20 prescriptions for which there was no
21 legitimate medical purpose, correct?
22 MS. McENROE: Objection to
23 form.
24 THE WITNESS: That's --

Page 123

1 that's what it says. Again, I
2 have no knowledge of that
3 whatsoever.
4 BY MR. SIMMER:
5 Q. Following the \$5 million in
6 fines that Rite Aid paid here, can you
7 tell us what changes the company made to
8 its suspicious order monitoring system to
9 ensure that orders were being shipped
10 based on legitimate medical purpose?
11 MS. McENROE: Objection to
12 form.
13 THE WITNESS: Again, this
14 is -- this entire document is
15 relating to the stores. Never
16 once does it talk about a
17 distribution center. And I am
18 confident that the programs we had
19 in place, based on DEA audits,
20 specifically Perryman in 2005 and
21 in 2009, we had glowing results.
22 BY MR. SIMMER:
23 Q. That wasn't what my question
24 was.

Page 124

1 Can you tell us what changes
2 the company made to its suspicious order
3 monitoring system to ensure that orders
4 were being shipped based on legitimate
5 medical purpose?
6 MS. McENROE: Objection to
7 form, including asked and
8 answered.
9 THE WITNESS: I am not aware
10 of any changes.
11 (Document marked for
12 identification as Exhibit Rite Aid
13 Mitchell-4.)
14 BY MR. SIMMER:
15 Q. I'll hand you what we've
16 marked as Mitchell Exhibit Number 4.
17 I'll identify it for the
18 record. It is a settlement agreement and
19 release. We've obtained this off -- it's
20 a public document. We obtained it off
21 the internet.
22 If you'd like to review the
23 entire document, that's fine. But I'm
24 just going to ask you a few general

Page 125

1 questions about it.
2 A. Okay.
3 Q. Do you recall ever having
4 seen this document before?
5 A. No, sir.
6 Q. Is it fair to say that this
7 settlement agreement and release, so far
8 as you know, did not result in any
9 changes in how you conducted your work as
10 director of supply chain regulatory
11 compliance at Rite Aid?
12 MS. McENROE: Objection to
13 form.
14 THE WITNESS: That is
15 correct.
16 BY MR. SIMMER:
17 Q. Okay. I'll direct your
18 attention to one specific paragraph,
19 Paragraph 10 on Page 11.
20 Do you see where it says,
21 "Rite Aid represents that it has taken
22 good faith actions to detect and prevent
23 diversion, including without limitation,
24 agreeing to implement the policies and

<p style="text-align: right;">Page 126</p> <p>1 procedures that are the subject of a 2 memorandum of agreement between Rite Aid 3 and the Drug Enforcement Administration, 4 dated January 12, 2009, and attached 5 hereto as Appendix B." 6 Do you see that? 7 A. Yes. 8 Q. Did you undertake any 9 changes in your work as Rite Aid's 10 director of supply chain regulatory 11 compliance as part of these good faith 12 actions that the company agreed to 13 undertake? 14 MS. McENROE: Objection to 15 form. 16 THE WITNESS: Is there a 17 copy of the MOU that they are 18 referring, or memorandum of 19 agreement? 20 BY MR. SIMMER: 21 Q. Well, we'll get to that in a 22 moment. I just recall -- I'm asking 23 whether you -- whether you recall 24 undertaking any good faith actions at all</p>	<p style="text-align: right;">Page 128</p> <p>1 pages. 2 I think it's the memorandum 3 of agreement that was being discussed in 4 the prior exhibit. Take a moment to look 5 at that. 6 By all means, look at the 7 entire document if you need to. But I 8 just have a few specific questions 9 relatively straightforward. 10 Just the first paragraph. I 11 can point to you a couple passages, and 12 if you need to look at the rest of the 13 document, do so. 14 First paragraph, do you see 15 that it says, "This is administrative 16 memorandum of agreement entered into on 17 this 12th day of January, 2009, by and 18 between the United States Department of 19 Justice, Drug Enforcement Administration, 20 hereinafter DEA, and Rite Aid 21 Corporation"? 22 Do you see that? 23 A. Yes, sir. 24 Q. And that Rite Aid</p>
<p style="text-align: right;">Page 127</p> <p>1 as a result of this settlement? 2 MS. McENROE: Objection to 3 form. 4 THE WITNESS: I do not 5 recall. 6 (Document marked for 7 identification as Exhibit Rite Aid 8 Mitchell-5.) 9 BY MR. SIMMER: 10 Q. Just to be clear for the 11 record. Do you recall any discussions at 12 all about this \$5 million settlement 13 while you were working with Rite Aid? 14 MS. McENROE: Objection to 15 form. 16 THE WITNESS: I do not 17 recall. 18 BY MR. SIMMER: 19 Q. I'll hand you what we've 20 marked as Mitchell Exhibit Number 5. 21 I'll identify it for the 22 record as a document entitled memorandum 23 of agreement. And again, it's a document 24 we obtained from the internet. Multi</p>	<p style="text-align: right;">Page 129</p> <p>1 Corporation, that's the entity that you 2 work for, correct? 3 MS. McENROE: Objection to 4 form. 5 THE WITNESS: Yes, sir. 6 BY MR. SIMMER: 7 Q. You see at the end of that 8 paragraph it says, "A list of Rite Aid 9 subsidiaries is attached hereto as 10 Exhibit A"? 11 I'm sorry, Appendix A? 12 A. Yes, sir. 13 Q. Can I direct you to 14 Appendix A at the back, it's Page 9. 15 And this is a list of all 16 the Rite Aid subsidiaries, correct? 17 A. Yes, sir. 18 Q. And they were a party to -- 19 as far as the way this is referencing, 20 they were a party to the settlement as 21 well, correct? 22 A. Apparently so, yes, sir. 23 Q. And in the case of the 24 Perryman facility, is that what's</p>

Page 130

1 indicated, Rite Aid of Maryland Inc.?
2 MS. McENROE: Objection to
3 form.
4 THE WITNESS: Yes, sir.
5 BY MR. SIMMER:
6 Q. Can I take you back to
7 Page 3 of this exhibit. At the last
8 sentence of the first paragraph on that
9 page, do you see where it says, "Rite Aid
10 acknowledges and agrees that the
11 obligations undertaken in this
12 subparagraph do not fulfill the totality
13 of its obligations under the CSA"?
14 A. Yes, sir.
15 Q. So you agree with me that --
16 that the compliance that the company had
17 entered into wasn't all its obligations
18 were under the Controlled Substances Act,
19 right?
20 A. Yes, sir.
21 Q. And in the next paragraph,
22 you see where it says, "Rite Aid shall
23 monitor compliance at all Rite Aid
24 locations in properly maintaining records

Page 131

1 in accordance with the CSA. Within one
2 year of the effective date of this
3 agreement, Rite Aid loss prevention
4 managers will conduct a separate audit of
5 all Rite Aid pharmacies for compliance in
6 all material respects with all applicable
7 DEA regulatory requirements, including
8 regulatory" -- or "including
9 recordkeeping, reporting and security."
10 Do you see that?
11 A. Yes, sir.
12 Q. Did you have any role and
13 responsibility with regard to those
14 audits of the -- of the Rite Aid
15 pharmacies?
16 A. No, sir.
17 Q. Were you aware that -- that
18 as part of this settlement, there were
19 allegations that there were prescriptions
20 issued for which there was no legitimate
21 medical need?
22 MS. McENROE: Objection to
23 form. Asked and answered.
24 THE WITNESS: No, sir.

Page 132

1 BY MR. SIMMER:
2 Q. Had you known that, would it
3 have -- have prompted you to make any
4 changes to Rite Aid's suspicious order
5 monitoring program?
6 MS. McENROE: Objection to
7 form. Calls for speculation.
8 THE WITNESS: I don't think
9 so.
10 BY MR. SIMMER:
11 Q. Because in your -- your
12 view, what happened at the pharmacies was
13 irrelevant to what was happening at the
14 distribution center level?
15 MS. McENROE: Objection to
16 form.
17 THE WITNESS: I felt
18 comfortable that the distribution
19 centers had good policies and
20 procedures and measures already in
21 place to prevent the DCs from --
22 from shipping to stores.
23 BY MR. SIMMER:
24 Q. So as far as you know, were

Page 133

1 the distribution centers -- centers
2 actually monitoring whether there was
3 legitimate medical need for the
4 prescriptions that they were filling?
5 MS. McENROE: Objection to
6 form.
7 THE WITNESS: The
8 distribution center would have
9 absolutely no idea about a
10 legitimate medical need.
11 They would be able to look
12 at -- you know, first of all our
13 distribution centers, they
14 distributed Schedules III through
15 V. So Schedule IIs were not
16 distributed at the DC.
17 And again, there was a
18 monitoring program in place to
19 look for anything out of the norm;
20 excessive, suspicious, et cetera.
21 BY MR. SIMMER:
22 Q. But the fact that in this
23 settlement agreement, the -- the company
24 admitted that there were prescriptions

<p style="text-align: right;">Page 134</p> <p>1 that were filled at pharmacies where 2 there was no legitimate medical need, 3 that had no bearing on what you were 4 doing in your job; is that right? 5 MS. McENROE: Objection to 6 form. 7 THE WITNESS: That would be 8 correct. This is 100 percent 9 related to deficiencies at the 10 pharmacies. It's not the pharmacy 11 distribution centers. 12 BY MR. SIMMER: 13 Q. So -- so when a -- 14 MS. McENROE: Hold on. Did 15 you have something more to say? 16 BY MR. SIMMER: 17 Q. Yeah, were you -- 18 A. Again, I was just going to 19 kind of go back to, we had had -- we have 20 had multiple DEA audits, where again DEA 21 has come in, they -- they've looked at 22 the entire gamut of the operation. They 23 have continually praised the distribution 24 center on its compliance programs, on the</p>	<p style="text-align: right;">Page 136</p> <p>1 Q. And I'm trying to 2 understand. As you -- in your 3 responsibilities as the director of 4 supply chain regulatory compliance at 5 this time, what you're -- you're 6 testifying that the fact that there were 7 prescriptions filled where there was no 8 legitimate medical need, you felt that 9 they had nothing to do with the company's 10 obligation to have a suspicious order 11 monitoring program that was in operation 12 at the time, right? 13 MS. McENROE: Objection to 14 form. 15 THE WITNESS: No, that's not 16 what I said. 17 I said that my 18 responsibility was oversight over 19 the distribution centers. 20 I was not aware of any of 21 this when it happened. Therefore, 22 if I'm not aware of it, I 23 wouldn't, or couldn't have made 24 changes to the program at the DCs.</p>
<p style="text-align: right;">Page 135</p> <p>1 effectiveness on the programs. 2 And again, with DEA being 3 kind of my scorecard as to how I rate my 4 ability to help the DCs become compliant, 5 if the DC -- if the DEA is telling me 6 that your program is awesome, then I have 7 no -- no really valid business reason to 8 want to change that. 9 BY MR. SIMMER: 10 Q. Point well taken. 11 So what you're testifying, 12 as I understand it, the fact that the 13 company had admitted in this settlement 14 agreement that there were prescriptions 15 filled where there was no legitimate 16 medical need was irrelevant to what 17 the -- the company was doing in 18 suspicious order monitoring, correct? 19 MS. McENROE: Objection to 20 form. 21 THE WITNESS: I'm saying I 22 had no oversight or knowledge of 23 it. 24 BY MR. SIMMER:</p>	<p style="text-align: right;">Page 137</p> <p>1 BY MR. SIMMER: 2 Q. Do you have an understanding 3 of who in the company would have had an 4 obligation to tell you about this 5 settlement agreement and how it might 6 impact what the company was doing about 7 its suspicious order monitoring program? 8 MS. McENROE: Objection to 9 form. 10 THE WITNESS: I could assume 11 that multiple people could have, 12 or should have notified the supply 13 chain department. 14 BY MR. SIMMER: 15 Q. And who were those 16 individuals you believe that could have 17 or should have notified the supply chain 18 department? 19 A. Whoever was involved in 20 making the settlement. So I'm -- I would 21 assume the Rite Aid legal team, or 22 government affairs or pharmacy 23 operations. 24 Q. And your best recollection</p>

1 is none of those individuals, none of
2 those departments, ever notified you of
3 any changes that should be made to Rite
4 Aid's suspicious order monitoring
5 program, right?

MS. McENROE: Objection to
form.

8 THE WITNESS: I am not
9 aware, no.

(Document marked for
identification as Exhibit Rite Aid
Mitchell-6.)

13 BY MR. SIMMER:

Response	Percentage
Yes, the U.S. should take action to address climate change	95%
No, the U.S. should not take action to address climate change	5%

A horizontal bar chart titled 'U.S. should take action to address climate change'. The y-axis lists age groups: 18-29, 30-49, 50-69, 70+, and 'All adults'. The x-axis represents the percentage of respondents, ranging from 0 to 100. For each age group, there are two bars: a blue bar for 'Total' and a red bar for 'Men'. The data shows that younger age groups are more likely to believe the U.S. should take action, with the 18-29 group showing the highest percentage (88% for Total, 85% for Men). The percentage decreases as age increases, with the 70+ group showing the lowest percentage (55% for Total, 52% for Men). The 'All adults' average is 72% for Total and 68% for Men.

Age Group	Total (%)	Men (%)
18-29	88	85
30-49	78	75
50-69	72	68
70+	55	52
All adults	72	68

Demographic	Should Take Action	Should Not Take Action
All respondents	85%	15%
Gender		
Male	83%	17%
Female	87%	13%
Age		
18-29	88%	12%
30-49	85%	15%
50-69	82%	18%
70+	80%	20%
Education		
High school or less	80%	20%
Some college	85%	15%
Bachelor's or higher	88%	12%

Page 142

[REDACTED]

Page 144

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Page 148

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Page 149

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Page 152

²⁴ legitimate need, it's simply there are

Page 151

Page 153

Page 154

Page 156

Page 155

Page 157

Page 162

1 BY MR. SIMMER:
2 Q. I'm not asking whether it
3 could be.
4 So your system is
5 identifying excessive orders, right?
6 A. It would --
7 MS. McENROE: Objection to
8 form.
9 THE WITNESS: Our system
10 would identify both.
11 BY MR. SIMMER:
12 Q. Okay. So if I -- if your
13 system is identifying excessive orders
14 beyond the threshold, right?
15 A. Yes, sir.
16 Q. I'm asking do you have
17 any -- any idea how -- what the frequency
18 is where that excessive order actually
19 turned out to be a suspicious order?
20 MS. McENROE: Objection to
21 form.
22 THE WITNESS: I don't recall
23 any suspicious orders during my
24 tenure with Rite Aid.

Page 163

1 BY MR. SIMMER:
2 Q. So the fact that you were
3 identifying excessive orders has no
4 correlation at all to there being any
5 suspicious orders, right?
6 MS. McENROE: Objection to
7 form.
8 THE WITNESS: I would agree.
9 BY MR. SIMMER:
10 Q. Because your system didn't
11 identify any suspicious orders, right?
12 MS. McENROE: Objection to
13 form.
14 THE WITNESS: Not that I
15 recall.
16 BY MR. SIMMER:
17 Q. And what is your
18 understanding how why identifying orders
19 over 5,000 units per month would identify
20 suspicious orders?
21 MS. McENROE: Objection to
22 form.
23 THE WITNESS: Could you ask
24 that again, please?

Page 164

1 BY MR. SIMMER:
2 Q. Sure.
3 Based on your experience as
4 senior director supply chain regulatory
5 compliance, do you have any understanding
6 how identifying orders over 5,000 units
7 per month would identify suspicious
8 orders?
9 MS. McENROE: Objection to
10 form.
11 THE WITNESS: I do not.
12 BY MR. SIMMER:
13 Q. Based on your experience as
14 senior director of supply chain
15 regulatory compliance, do you know what
16 happened if Rite Aid identified an order
17 as being excessive?
18 A. Yes, I do.
19 Q. What happened?
20 A. So, there was a policy in
21 place, Rite Aid would actually contact --
22 the Rite Aid distribution center would
23 contact the store and ask the store, hey,
24 we got an order for 53 units, did you

Page 165

1 mean to order 53 units. Depending on
2 what they said, again typically, I think
3 we talked about this earlier, they would
4 say, "No, I'm sorry, the order, it should
5 be five," or, "It should be three."
6 They would make a note of
7 that on a log. And then cut that order
8 back to whatever the true amount was that
9 was -- that should have been ordered.
10 Q. In the example, if -- if the
11 order was being filled in the middle of
12 the night, what would the overnight shift
13 do at Perryman if an order came in that
14 was over the threshold?
15 A. I think -- well, they did a
16 couple things. First of all, you can't
17 contact the store in the middle of the
18 night. So sometimes I'm sure nothing was
19 done. It may have just automatically
20 been cut back. And then I'm sure there
21 were probably times where they may have
22 left a note for somebody on the dayshift
23 that, hey, this happened at nightshift.
24 If that order had not shipped already for

Page 166

1 the dayshift to contact somebody from the
2 store.
3 Again, all of that would be
4 my -- just my opinion based on -- I
5 wouldn't know when the order -- when it
6 left the building. But again, if it was
7 still in the building, they would have
8 the ability to call. Otherwise they
9 would just automatically cut it down to
10 the threshold before shipping.
11 Q. So in the example where they
12 were cutting it back like that, they
13 would cut it back to simply the threshold
14 and then somebody else would follow up
15 later; is that right?
16 A. That could happen, yes.
17 Q. Or -- or it could also
18 happen that nobody ever called the
19 pharmacy to check about why the order
20 exceeded the threshold, right?
21 A. That could be true as well.
22 Q. So is it the case that the
23 part that was actually shipped was deemed
24 to have not been excessive, right?

Page 167

1 MS. McENROE: Objection to
2 form.
3 THE WITNESS: Based on the
4 thresholds, that would be correct.
5 BY MR. SIMMER:
6 [REDACTED]
7 [REDACTED]
8 [REDACTED]
9 [REDACTED]
10 [REDACTED]
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12 [REDACTED]
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Page 170

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Page 172

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Page 171

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Page 173

[REDACTED]

24 S. McENROE: Objection to form.

Page 174

■ [REDACTED]
■ [REDACTED]

3 BY MR. SIMMER:
4 Q. Is there anything else about
5 the suspicious order monitoring program
6 or excessive order monitoring program
7 that you understood happened beyond what
8 she's described here?
9 MS. McENROE: Objection to
10 form.
11 THE WITNESS: Not that I
12 recall.
13 BY MR. SIMMER:
14 Q. So does the company use the
15 terms "excessive order monitoring
16 program" and "suspicious order monitoring
17 programs" to mean the same thing?
18 MS. McENROE: Objection to
19 form.
20 THE WITNESS: No, sir.
21 BY MR. SIMMER:
22 Q. How are they different?
23 A. Again, excessive, I think we
24 just talked about this a few moments ago.

Page 175

1 Excessive is just that, it's excessive
2 based on a normal pattern of ordering.
3 Suspicious would be something that's way
4 out of the ordinary.
5 Q. So the excessive order
6 monitoring program really doesn't
7 identify suspicious orders at all, does
8 it?
9 MS. McENROE: Objection to
10 form.
11 THE WITNESS: It -- it
12 could.
13 BY MR. SIMMER:
14 Q. But is that what its aim is,
15 is to identify suspicious orders?
16 MS. McENROE: Objection to
17 form.
18 THE WITNESS: I think our --
19 our responsibility is to remain
20 open-minded every day about
21 looking for suspicious and/or
22 excessive orders.
23 BY MR. SIMMER:
24 Q. That wasn't my question.

Page 176

1 I'm asking whether the excessive order
2 monitoring program actually identifies
3 suspicious orders. That -- was that its
4 aim?
5 MS. McENROE: Objection to
6 form.
7 THE WITNESS: No, it was
8 not.
9 MR. SIMMER: Can we take our
10 lunch break?
11 THE VIDEOGRAPHER: The time
12 is now 12:32 p.m. We're going off
13 the record.
14 (Lunch break.)
15 THE VIDEOGRAPHER: The time
16 is now 1:24 p.m. We are back on
17 the record.
18 BY MR. SIMMER:
19 Q. Sir, this morning you
20 discussed the fact that you and a group
21 of other individuals at internal
22 assurance in 2009 started what I think
23 you called a -- a CSA team, correct?
24 MS. McENROE: Objection to

Page 177

1 form.
2 THE WITNESS: Yes, sir.
3 BY MR. SIMMER:
4 Q. And I think you said that
5 you developed a checklist of some kind
6 that you went out and used then to
7 conduct audits of the distribution
8 centers; is that correct?
9 A. The teams conducted the
10 audits, correct, yes, sir.
11 Q. Okay. I'll hand you what
12 I'll identify for the record in a moment.
13 Just have you look at it.
14 (Document marked for
15 identification as Exhibit Rite Aid
16 Mitchell-7.)
17 BY MR. SIMMER:
18 ■ [REDACTED]
19 ■ [REDACTED]
20 ■ [REDACTED]
21 ■ [REDACTED]
22 ■ [REDACTED]
23 ■ [REDACTED]
24 ■ [REDACTED]

Page 178

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Page 192

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Page 191

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Page 193

[REDACTED]

²⁴ available to support the change?"

Page 194

[REDACTED]

Page 196

[REDACTED]

21 Q. Do you know what was done to
22 actually audit for that particular item?
23 A. I do not recall.
24 Q. So when it says controls in

Page 195

[REDACTED]

Page 197

1 place, what are -- what are the types of
2 controls in place that that's in
3 reference to?
4 A. If -- you know, again, I
5 would just want to preface that I don't
6 remember exactly what the audit team
7 would have done. But I would -- I would
8 be looking for inventory adjustments
9 along with potentially a 106 if there
10 were true theft identified in this.
11 Q. When it says in reference to
12 diversion though, it -- what type of
13 diversion are we looking for there?
14 MS. McENROE: Objection to
15 form.
16 THE WITNESS: I would say
17 we're looking for any kind of
18 diversion, anything that's again
19 out of the norm.
20 BY MR. SIMMER:
21 Q. Not just theft from the
22 distribution center, but any kind of
23 diversion diverting a drug to an
24 inappropriate use, right?

<p style="text-align: right;">Page 198</p> <p>1 MS. McENROE: Objection to 2 form. 3 THE WITNESS: Or -- that 4 could be true. It could be in a 5 different department it shouldn't 6 be in. It could be just as simple 7 as that. Just a lack of control. 8 BY MR. SIMMER: 9 Q. Do you know how the -- the 10 audit team reviewed this particular audit 11 finding or element to make a decision 12 whether the -- the distribution center 13 was in compliance or not? 14 MS. McENROE: Objection to 15 form. 16 THE WITNESS: I would assume 17 that they did a controlled drug 18 accountability on the items to 19 ensure that those numbers 20 balanced, which would show proper 21 control over receipts, sales, the 22 whole gamut. 23 BY MR. SIMMER: 24 Q. Is that actually looking</p>	<p style="text-align: right;">Page 200</p> <p>1 we've got proper controls and 2 there's been no diversion. 3 BY MR. SIMMER: 4 Q. So in that particular 5 example, we're just counting numbers, 6 we're not actually digging into the 7 orders themselves to determine whether 8 there was any inappropriate order 9 included, right? 10 MS. McENROE: Objection to 11 form. 12 THE WITNESS: That would 13 have done prior to any shipments 14 being made. 15 BY MR. SIMMER: 16 Q. By whom? 17 A. By the pharmacy department. 18 Q. But not -- at -- out of the 19 Perryman center, they would not -- or 20 distribution center. They would not be 21 looking at whether the orders themselves 22 were appropriate, right? 23 MS. McENROE: Objection to 24 form.</p>
<p style="text-align: right;">Page 199</p> <p>1 then at shipments to, you know, that -- 2 that Perryman was making to determine 3 whether there was any diversion -- 4 evidence of diversion there? 5 A. Yes -- 6 MS. McENROE: Objection to 7 form. 8 THE WITNESS: Yes, sir. It 9 would -- it would look at a couple 10 things. So it would look at your 11 on-hand inventory at the 12 distribution center. It would 13 look at your inbound receipts 14 coming from the manufacturers 15 and/or McKesson in this case. 16 And it would also look at 17 our outbound shipments. 18 So once you do the math, you 19 know, add your inbound to your 20 existing minus your sales, you 21 should have an on-hand inventory. 22 And if that on-hand 23 inventory is truly what the system 24 says it is, then we show that</p>	<p style="text-align: right;">Page 201</p> <p>1 THE WITNESS: The Perryman 2 facility, those folks would be 3 looking. 4 The -- the CSA audit team, 5 if -- if that's what you're 6 asking, they would not know that. 7 BY MR. SIMMER: 8 Q. So what did the Perryman 9 facility folks do to determine whether 10 the orders were appropriate? 11 MS. McENROE: Objection to 12 form. 13 THE WITNESS: There -- in 14 the excessive order monitoring 15 program, they -- they have a 16 checklist internally that they 17 would use to identify what -- what 18 was quantities and what -- what 19 was the NDC of the items coming 20 in. They would then review that. 21 And there were things even less 22 than the threshold that could look 23 excessive to them. So if -- you 24 know, if my store typically orders</p>

<p style="text-align: right;">Page 202</p> <p>1 two of something each week, which 2 is well below the threshold, if 3 they all of a sudden order seven, 4 because you have the same people 5 picking orders day in and day out, 6 that looks excessive. 7 BY MR. SIMMER: 8 Q. So you're just looking at 9 excessive orders, not suspicious orders? 10 A. Well -- 11 MS. McENROE: Did you finish 12 your answer? 13 THE WITNESS: Yes and no. 14 There -- there -- I want 15 to -- I want to kind of correct 16 what I said earlier today too, if 17 I -- if I may. 18 BY MR. SIMMER: 19 Q. No, there's not a question 20 pending on that, so -- 21 A. Okay. So I'll move on. 22 Could you please repeat your 23 question again. 24 Q. So my question is, this</p>	<p style="text-align: right;">Page 204</p> <p>1 So again, if one store always 2 orders two of a specific item, and 3 all of the sudden they're ordering 4 anything greater than that, they 5 would then -- that would be kind 6 of an eye opener to them. 7 They would then in turn call 8 the store, verify if you really 9 truly needed that seven or if that 10 order should be cut back to two. 11 And they have logs that they keep 12 in the control drug cage that 13 annotate every -- every call they 14 made, who they spoke to, what the 15 outcome of the call was, and if 16 that order was in turn reduced or 17 not. 18 BY MR. SIMMER: 19 Q. And you had nothing to do 20 with that process that you've described, 21 right? 22 MS. McENROE: Objection to 23 form. 24 THE WITNESS: That's</p>
<p style="text-align: right;">Page 203</p> <p>1 process you've talked about, where the 2 Perryman folks would have looked at this, 3 they are identifying excessive orders, 4 not suspicious orders, right? 5 MS. McENROE: Objection to 6 form. 7 THE WITNESS: Excessive 8 orders could turn into suspicious 9 orders. 10 BY MR. SIMMER: 11 Q. But they are only really 12 looking at the total number of count of 13 orders relative to a prior period, right? 14 MS. McENROE: Objection to 15 form. 16 THE WITNESS: It's probably 17 better that one of them answer 18 that than me. 19 My understanding is that 20 they are looking at anything that 21 just looks abnormal. Again, it 22 could be small in size, it could 23 be large in size. 24 They would then question it.</p>	<p style="text-align: right;">Page 205</p> <p>1 correct. I worked at the 2 corporate headquarters. I did not 3 work at the DC. 4 BY MR. SIMMER: 5 Q. So when you talked about 6 your understanding, you're just 7 speculating, aren't you? 8 MS. McENROE: Objection. 9 BY MR. SIMMER: 10 Q. What they actually did, 11 right? 12 MS. McENROE: Objection to 13 form. 14 THE WITNESS: No. During 15 audits, I've actually seen it 16 happen. I've witnessed it. 17 BY MR. SIMMER: 18 Q. Tell us when -- what times 19 you recall having witnessed that 20 occurring. 21 A. I can't give you specific 22 timelines, but during my 11 and a half 23 years of employment there. 24 Q. But you can't tell us</p>

<p style="text-align: right;">Page 206</p> <p>1 specifically what happened?</p> <p>2 MS. McENROE: Objection to</p> <p>3 form. Asked and answered.</p> <p>4 THE WITNESS: No. That's</p> <p>5 19 years ago to seven years ago, I</p> <p>6 don't recall a specific date.</p> <p>7 BY MR. SIMMER:</p> <p>8 Q. So did you actually</p> <p>9 participate ever on any of these calls</p> <p>10 that the distribution center made to a</p> <p>11 pharmacy to call -- to question whether</p> <p>12 the order was suspicious or not?</p> <p>13 A. Did I participate? No, I</p> <p>14 did not.</p> <p>15 Q. So in the Perryman center --</p> <p>16 let me have -- see if I get this right.</p> <p>17 It was the order picker that would flag</p> <p>18 whether it was a potentially suspicious</p> <p>19 order; is that right?</p> <p>20 MS. McENROE: Objection to</p> <p>21 form.</p> <p>22 THE WITNESS: That is</p> <p>23 correct.</p> <p>24 BY MR. SIMMER:</p>	<p style="text-align: right;">Page 208</p> <p>1 Q. So were there any objective</p> <p>2 criteria used by the order picker in</p> <p>3 order to determine whether an order was</p> <p>4 suspicious or not?</p> <p>5 MS. McENROE: Objection to</p> <p>6 form.</p> <p>7 THE WITNESS: Correct.</p> <p>8 BY MR. SIMMER:</p> <p>9 Q. I didn't ask a yes-or-no</p> <p>10 question. I said were there any</p> <p>11 objective criteria used by the order</p> <p>12 picker to determine whether it was</p> <p>13 suspicious or not?</p> <p>14 MS. McENROE: Objection to</p> <p>15 form.</p> <p>16 THE WITNESS: Again, their</p> <p>17 experience.</p> <p>18 BY MR. SIMMER:</p> <p>19 Q. Were there any SOPs in place</p> <p>20 that the company used to determine</p> <p>21 whether an order was suspicious or not?</p> <p>22 MS. McENROE: Objection to</p> <p>23 form.</p> <p>24 THE WITNESS: The company</p>
<p style="text-align: right;">Page 207</p> <p>1 Q. And that is what your</p> <p>2 understanding is?</p> <p>3 A. That is correct.</p> <p>4 Q. And the order picker would</p> <p>5 use what criteria to decide whether an</p> <p>6 order was suspicious or not?</p> <p>7 MS. McENROE: Objection to</p> <p>8 form.</p> <p>9 THE WITNESS: They --</p> <p>10 experience from daily picking the</p> <p>11 same stores' orders over and over.</p> <p>12 They would be able to</p> <p>13 identify something that looked</p> <p>14 excessive and/or suspicious.</p> <p>15 BY MR. SIMMER:</p> <p>16 Q. And that's subjective,</p> <p>17 right?</p> <p>18 MS. McENROE: Objection to</p> <p>19 form.</p> <p>20 THE WITNESS: It could be.</p> <p>21 But again, based on their</p> <p>22 experience, they felt that it</p> <p>23 looked outside of the norm.</p> <p>24 BY MR. SIMMER:</p>	<p style="text-align: right;">Page 209</p> <p>1 did have SOPs for suspicious order</p> <p>2 monitoring.</p> <p>3 BY MR. SIMMER:</p> <p>4 Q. And what were the criteria</p> <p>5 used to determine whether an order was</p> <p>6 suspicious or not from those SOPs?</p> <p>7 A. I don't recall.</p> <p>8 Q. But I think what you're</p> <p>9 talking about, isn't it, that the pickers</p> <p>10 would use their experience, right?</p> <p>11 A. They would.</p> <p>12 Q. Is it your testimony that</p> <p>13 the order pickers were trained to</p> <p>14 identify what they believe to be</p> <p>15 suspicious orders?</p> <p>16 A. Yes.</p> <p>17 Q. Who did that training?</p> <p>18 A. The pharmacy department team</p> <p>19 at the DCs.</p> <p>20 Q. And did they have training</p> <p>21 materials they used for that training to</p> <p>22 train the order pickers to determine what</p> <p>23 was suspicious?</p> <p>24 A. They had training materials</p>

<p style="text-align: right;">Page 210</p> <p>1 and signoffs from each associate that was 2 trained. 3 Q. And what were the training 4 materials they used for this training? 5 MS. McENROE: Objection to 6 form. 7 THE WITNESS: That, I cannot 8 answer. I don't know. 9 BY MR. SIMMER: 10 Q. Who prepared the training 11 materials? 12 A. The DC. 13 Q. You had nothing to do with 14 it? 15 A. I did not. 16 Q. Okay. Were these pickers 17 evaluated on how accurate they were in 18 determining whether orders were 19 suspicious or not? 20 MS. McENROE: Objection to 21 form. 22 THE WITNESS: That, I do not 23 know. 24 BY MR. SIMMER:</p>	<p style="text-align: right;">Page 212</p> <p>1 BY MR. SIMMER: 2 Q. Did anybody ever audit the 3 accuracy of their picking suspicious 4 orders? 5 MS. McENROE: Objection to 6 form. 7 THE WITNESS: I do not know. 8 BY MR. SIMMER: 9 Q. Yet, this is one of the 10 things that you and the CSA team did, is 11 put together that checklist? You didn't 12 put anything in your checklist that 13 mandated that the Perryman center and the 14 Woodland center was to be audited for the 15 accuracy of the pickers in identifying 16 suspicious orders; isn't that right? 17 MS. McENROE: Objection to 18 form. 19 THE WITNESS: We 20 identified -- what we required was 21 that there be an excessive order 22 and/or suspicious order monitoring 23 program and that it was being 24 used.</p>
<p style="text-align: right;">Page 211</p> <p>1 Q. Do you know whether they 2 received any kind of bonuses or -- in 3 their -- in their evaluations related to 4 their accuracy of identifying suspicious 5 orders? 6 MS. McENROE: Objection to 7 form. 8 THE WITNESS: That, I do not 9 know. 10 BY MR. SIMMER: 11 Q. Do you know whether any 12 order pickers were ever fired for not 13 adequately identifying suspicious orders? 14 MS. McENROE: Objection to 15 form. 16 THE WITNESS: I do not know. 17 BY MR. SIMMER: 18 Q. Do you know if any part of 19 their evaluation whatsoever evaluated the 20 accuracy of their picking suspicious 21 orders? 22 MS. McENROE: Objection to 23 form. 24 THE WITNESS: I do not know.</p>	<p style="text-align: right;">Page 213</p> <p>1 And based on the results and 2 the documents from the DCs, it was 3 being used. It was being used 4 very effectively. And DEA as well 5 commented on just how good and 6 solid that program was. 7 MR. SIMMER: Move to strike 8 everything after "monitoring 9 program and that it was being 10 used." Everything after that is 11 nonresponsive to the question. 12 MS. McENROE: For the 13 purposes of the record, Rite Aid 14 disagrees. And we can fight it 15 out at the time of the trial. But 16 that you don't like the witness's 17 answer is not a basis to move to 18 strike. 19 MR. SIMMER: You know what? 20 I can make any objection I want 21 just like you can. 22 MS. McENROE: And I can -- 23 MR. SIMMER: And you can 24 take it to the judge if you'd</p>

<p style="text-align: right;">Page 214</p> <p>1 like.</p> <p>2 MS. McENROE: Yep. I can</p> <p>3 preserve it for the record. I</p> <p>4 said at the time of trial we can</p> <p>5 deal with it.</p> <p>6 MR. SIMMER: That's fine.</p> <p>7 BY MR. SIMMER:</p> <p>8 Q. Sir, is there anywhere in</p> <p>9 this document that you and the CSA team</p> <p>10 created the use of the word "suspicious"</p> <p>11 anywhere?</p> <p>12 MS. McENROE: Objection to</p> <p>13 form.</p> <p>14 THE WITNESS: I did not see</p> <p>15 that in the document, no.</p> <p>16 BY MR. SIMMER:</p> <p>17 Q. And in fact, the -- on the</p> <p>18 items that we just looked at, the four,</p> <p>19 five, six items that we looked at, they</p> <p>20 talk about excessive orders, don't they?</p> <p>21 A. Yes, they did.</p> <p>22 Q. They don't talk about</p> <p>23 suspicious orders, do they, anywhere in</p> <p>24 this document?</p>	<p style="text-align: right;">Page 216</p> <p>1 monitoring program in place, you would</p> <p>2 have put that in these criteria for the</p> <p>3 audit, wouldn't you?</p> <p>4 MS. McENROE: Objection to</p> <p>5 form.</p> <p>6 THE WITNESS: I would</p> <p>7 assume, yes.</p> <p>8 BY MR. SIMMER:</p> <p>9 Q. But you didn't. You only</p> <p>10 talk about excessive orders in this</p> <p>11 document; isn't that right?</p> <p>12 MS. McENROE: Objection to</p> <p>13 form.</p> <p>14 THE WITNESS: For this</p> <p>15 specific document, yes.</p> <p>16 BY MR. SIMMER:</p> <p>17 Q. Well, did it ever change</p> <p>18 during the time that you worked at the</p> <p>19 company, that actually was one of the</p> <p>20 criteria that was looked at, is whether</p> <p>21 they had -- they were actually doing</p> <p>22 suspicious order monitoring?</p> <p>23 MS. McENROE: Objection to</p> <p>24 form.</p>
<p style="text-align: right;">Page 215</p> <p>1 A. Specifically, I did not see</p> <p>2 it, no.</p> <p>3 Q. So when you talked about in</p> <p>4 your answer previously that you would --</p> <p>5 they were looking for excessive and/or</p> <p>6 suspicious orders, it's just excessive</p> <p>7 orders, isn't it?</p> <p>8 MS. McENROE: Objection to</p> <p>9 form.</p> <p>10 THE WITNESS: It depends on</p> <p>11 how you interpret it. But as it's</p> <p>12 written, yes.</p> <p>13 BY MR. SIMMER:</p> <p>14 Q. Well, the words are the</p> <p>15 words used in the document that you and</p> <p>16 the CSA team created, right?</p> <p>17 MS. McENROE: Objection to</p> <p>18 form.</p> <p>19 THE WITNESS: That's</p> <p>20 correct.</p> <p>21 BY MR. SIMMER:</p> <p>22 Q. So if you wanted to evaluate</p> <p>23 these two distribution centers for</p> <p>24 whether they had a suspicious order</p>	<p style="text-align: right;">Page 217</p> <p>1 THE WITNESS: That may not</p> <p>2 have been part of this specific</p> <p>3 program, but it was part of my</p> <p>4 self-assessment, or my audits that</p> <p>5 I conducted independently of the</p> <p>6 CSA team.</p> <p>7 BY MR. SIMMER:</p> <p>8 Q. And you put that in writing</p> <p>9 someplace?</p> <p>10 A. Oh, there's certainly</p> <p>11 checklists out there, yes.</p> <p>12 Q. And that referred to</p> <p>13 suspicious order monitoring program,</p> <p>14 right?</p> <p>15 A. Yes, yes.</p> <p>16 Q. And where would we find that</p> <p>17 document?</p> <p>18 A. It -- it should be in my</p> <p>19 documents that I had when I was with the</p> <p>20 company.</p> <p>21 (Document marked for</p> <p>22 identification as Exhibit Rite Aid</p> <p>23 Mitchell-8.)</p> <p>24 BY MR. SIMMER:</p>

Page 218

[REDACTED]

Page 220

[REDACTED]

Page 219

[REDACTED]

Page 221

[REDACTED]

11 (Document marked for
12 identification as Exhibit Rite Aid
13 Mitchell-9.)
14 BY MR. SIMMER:

[REDACTED]

Page 222

[REDACTED]

Page 223

[REDACTED]

15 Do you see that?

16 A. Yes, sir.

17 Q. And I understand that what

18 this is, is basically a description of

19 what's in this above average order

20 monitoring program, correct?

21 MS. McENROE: Objection to

22 form.

23 THE WITNESS: Yes, sir.

24 BY MR. SIMMER:

Page 224

1 Q. Okay. Now just to clarify

2 for the record. Was there another

3 program in place to identify suspicious

4 orders?

5 MS. McENROE: Objection to

6 form.

7 THE WITNESS: I don't

8 recall.

9 BY MR. SIMMER:

10 Q. So in terms of what we're

11 talking about here, this just identifies

12 an unusually high order; is that right?

13 MS. McENROE: Objection to

14 form.

15 THE WITNESS: That's

16 correct.

17 BY MR. SIMMER:

18 Q. So when we talked earlier,

19 you said that the -- the -- those who

20 were doing the order picks, they would

21 use their judgment to identify if there

22 was a suspicious order, there wasn't a

23 program in place, except for this program

24 identifying unusually high orders, am I

Page 225

1 right?

2 MS. McENROE: Objection to

3 form.

4 THE WITNESS: I would

5 disagree with that. Because if --

6 if that were true, then the

7 excessive order monitoring logs

8 that they did have would have only

9 been based off thresholds, they

10 wouldn't be based off just -- you

11 know, they -- they would have --

12 they'd have other information

13 other than anything that was

14 higher.

15 Because the document is

16 talking about if Pick-to-Light

17 indicates quantities greater than

18 50 or 10 or 5, that the picks

19 automatically stopped. Because

20 of, as we were talking about

21 earlier with using their judgment,

22 there were oftentimes that the

23 pick was stopped if they

24 identified 7 that just didn't seem

Page 226

1 right.
2 BY MR. SIMMER:
3 Q. But the program itself --
4 we're looking at this document. The
5 program itself only asked those doing the
6 picking to identify unusually high
7 orders, right?
8 MS. McENROE: Objection to
9 form.
10 THE WITNESS: That's what
11 this document says.
12 BY MR. SIMMER:
13 Q. And I asked you a moment
14 ago, and I just want to reiterate. There
15 was no written policy for anything to
16 identify suspicious orders, was there?
17 MS. McENROE: Objection.
18 THE WITNESS: There were
19 plenty of other written policies
20 that superseded or in conjunction
21 with this. So there are other
22 policies within Rite Aid that do
23 address suspicious orders.
24 BY MR. SIMMER:

Page 227

1 Q. A moment ago I asked you
2 this question: "Now just to clarify for
3 the record, was there another program in
4 place to identify suspicious orders?"
5 Your answer, "I don't
6 recall."
7 Which is it? Was there
8 other programs to identify suspicious
9 orders or not?
10 MS. McENROE: Objection to
11 form.
12 BY MR. SIMMER:
13 Q. Because your -- your answer
14 you just gave contradicts that.
15 A. My -- the answer I just gave
16 was talking about a policy.
17 So was there a process?
18 Again, the excessive order monitoring,
19 above average monitoring, suspicious
20 order monitoring, you know, in my mind
21 that's how you -- that's how you would
22 identify any of these.
23 Q. But there was no written
24 policy, am I right, to identify

Page 228

1 suspicious orders?
2 MS. McENROE: Objection to
3 form.
4 THE WITNESS: There is a
5 written policy.
6 This is a training document.
7 BY MR. SIMMER:
8 Q. Was there any written
9 training document, whatever you want to
10 call it, to identify suspicious orders?
11 MS. McENROE: Objection to
12 form.
13 THE WITNESS: That I do not
14 recall.
15 BY MR. SIMMER:
16 Q. Look at the -- I'll direct
17 your attention to the second paragraph,
18 please.

■ [REDACTED]
■ [REDACTED]
■ [REDACTED]
■ [REDACTED]
■ [REDACTED]
■ [REDACTED]

Page 229

■ [REDACTED]
■ [REDACTED]
■ [REDACTED]
■ [REDACTED]
■ [REDACTED]
■ [REDACTED]
■ [REDACTED]

8 MS. McENROE: Objection to
9 form.
10 BY MR. SIMMER:
11 Q. Can you tell me what that
12 means?
13 A. I see -- I see the sentence,
14 but I did not create this document so I
15 don't necessarily know what the intent
16 is.
17 Q. Who would we have to talk to
18 in order to understand the intent of
19 this?
20 A. If -- if I'm not mistaken, I
21 think Marian Wood would have created
22 these documents.
23 Q. And what department she --
24 did she work?

Page 230

1 A. She was the pharmacy
2 department manager and DEA coordinator
3 over -- over my tenure. She held several
4 different roles.
5 Q. So you sent this information
6 on to Mr. Hensley, right?
7 A. I forwarded the e-mails,
8 correct.
9 Q. And did you explain to him
10 what this particular sentence meant?
11 A. That I do not recall.
12 Q. But sitting here today, your
13 testimony is that you didn't even know
14 what that sentence means, right?
15 A. I don't typically read the
16 training documents that the DCs used
17 internally. That's not something I ever
18 got involved with.
19 Q. So you just sent these
20 materials on, you didn't -- you don't
21 even remember having read them?
22 MS. McENROE: Objection to
23 form.
24 THE WITNESS: I don't

Page 231

1 recall.
2 BY MR. SIMMER:
3 Q. Look at the second page if
4 you would. Just directing your attention
5 to the top there.
6 With the exceptions of Store
7 Number 777. What is Store Number 777?
8 A. They were a -- if my memory
9 serves correctly, they were an internet
10 company that Rite Aid acquired prior to
11 my tenure.
12 Q. DrugStore.com?
13 A. DrugStore.com, correct.
14 Q. And why do they have an
15 exception?
16 A. They have a lot more volume
17 than a standalone store.
18 Q. So do the -- the thresholds
19 just not apply to them?
20 MS. McENROE: Objection to
21 form.
22 THE WITNESS: Thresholds
23 were done the same for them as
24 they were for every other store,

Page 232

1 was my understanding.
2 BY MR. SIMMER:
3 [REDACTED]
4 [REDACTED]
5 [REDACTED]
6 [REDACTED]
7 [REDACTED]
8 [REDACTED]
9 [REDACTED]
10 [REDACTED]
11 [REDACTED]
12 Q. Do you know how this
13 threshold was arrived at for
14 DrugStore.com?
15 A. I do not. That would be a
16 question for Janet Hart.
17 Q. In -- in the audit
18 procedures that we looked at for your CSA
19 team that you developed, was there any
20 kind of audit undertaken to audit the
21 prescriptions that came in through
22 DrugStore.com?
23 MS. McENROE: Objection to
24 form.

Page 233

1 THE WITNESS: Not that I'm
2 aware of, no.
3 BY MR. SIMMER:
4 Q. So the Woodland and Perryman
5 distribution centers were simply not
6 audited for what was going on at -- at
7 DrugStore.com, right?
8 MS. McENROE: Objection to
9 form.
10 THE WITNESS: DrugStore.com
11 would have been no more than just
12 another store in Perryman's
13 distribution network.
14 BY MR. SIMMER:
15 Q. But it got no special
16 attention on your audit checklist that we
17 just talked about?
18 A. It would be treated like any
19 other store, correct.
20 [REDACTED]
21 [REDACTED]
22 [REDACTED]
23 [REDACTED]
24 [REDACTED]

Page 234

Page 236

Page 234

Page 236

Page 235

Page 237

Page 235

Page 237

Row	Bar Color	Approximate Length (Relative)
1	Black	95%
2	Black	95%
3	Black	85%
4	Black	75%
5	Black	95%
6	Black	35%
7	Black	85%
8	Black	95%
9	Black	85%
10	Black	90%
11	Black	95%
12	Black	10%
13	Black	85%
14	Black	85%
15	Black	90%
16	Black	10%
17	Black	85%
18	Black	85%
19	Black	90%
20	Black	10%
21	Black	85%
22	Black	90%
23	Black	85%
24	White	65%

23 to. Anything should be reported

24 that's diverting it out of its

Page 238

[REDACTED]

Page 240

[REDACTED]

Page 239

[REDACTED]

Page 241

[REDACTED]

Page 242

Page 244

21 Q. And do you know where these
22 forms are actually kept for each
23 individual employee?

24 A. I do not, sir.

Page 243

Page 245

1 (Document marked for
2 identification as Exhibit Rite Aid
3 Mitchell-11.)
4 BY MR. SIMMER:

A horizontal bar chart titled 'U.S. should take action to address climate change' showing the percentage of respondents who believe the U.S. should take action to address climate change. The chart is broken down by age group (18-29, 30-49, 50-69, 70+) and gender (Male, Female). The y-axis lists 16 categories, and the x-axis shows percentages from 0% to 100%.

Category	Percentage
18-29 Male	~85%
18-29 Female	~88%
30-49 Male	~82%
30-49 Female	~85%
50-69 Male	~88%
50-69 Female	~75%
70+ Male	100%
70+ Female	~25%
18-29 Male	~70%
18-29 Female	~90%
30-49 Male	100%
30-49 Female	~95%
50-69 Male	~35%
50-69 Female	~78%
70+ Male	~95%
70+ Female	~30%
18-29 Male	~55%
18-29 Female	~62%
30-49 Male	~85%
30-49 Female	~90%
50-69 Male	~45%
50-69 Female	~82%
70+ Male	~15%

A horizontal bar chart titled 'U.S. should take action to address climate change' showing the percentage of respondents who believe the U.S. should take action to address climate change. The chart is broken down by age group (18-29, 30-49, 50-69, 70+) and gender (Male, Female). The y-axis lists 16 categories, each representing a combination of age group and gender. The x-axis represents the percentage of respondents, ranging from 0% to 100%.

Category	Percentage
18-29 Male	~95%
18-29 Female	~95%
30-49 Male	~90%
30-49 Female	~90%
50-69 Male	~90%
50-69 Female	~90%
70+ Male	~85%
70+ Female	~85%
18-29 Male	~80%
18-29 Female	~80%
30-49 Male	~75%
30-49 Female	~75%
50-69 Male	~65%
50-69 Female	~65%
70+ Male	~60%
70+ Female	~60%
18-29 Male	~55%
18-29 Female	~55%
30-49 Male	~50%
30-49 Female	~50%
50-69 Male	~45%
50-69 Female	~45%
70+ Male	~40%
70+ Female	~40%

Page 246

[REDACTED]

Page 248

[REDACTED]

Page 247

[REDACTED]

Page 249

[REDACTED]

Page 250

[REDACTED]

Page 252

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Page 251

[REDACTED]

Page 253

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Page 254

[REDACTED]

Page 256

[REDACTED]

Page 255

[REDACTED]

Page 257

[REDACTED]

Page 258

1 [REDACTED]
2 [REDACTED]
3 [REDACTED]
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6 [REDACTED]
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11 [REDACTED]
12 [REDACTED]
13 [REDACTED]
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18 [REDACTED]
19 [REDACTED]
20 [REDACTED]
21 [REDACTED]
22 [REDACTED]
23 [REDACTED]
24 [REDACTED]

Page 259

1 [REDACTED]
2 [REDACTED]
3 [REDACTED]
4 [REDACTED]
5 [REDACTED]
6 [REDACTED]
7 [REDACTED]
8 [REDACTED]
9 [REDACTED]
10 [REDACTED]
11 [REDACTED]
12 [REDACTED]
13 [REDACTED]
14 [REDACTED]
15 [REDACTED]
16 MR. SIMMER: Can we take a
17 short break?
18 THE VIDEOGRAPHER: The time
19 is now 2:38 p.m. We're going off
20 the record.
21 (Short break.)
22 THE VIDEOGRAPHER: The time
23 is now 2:59 p.m. We are back on
24 the record.

Page 260

1 BY MR. SIMMER:
2 Q. Sir, just a couple more
3 questions about that last exhibit that we
4 were looking at a moment ago.
5 MS. McENROE: That's
6 Exhibit 11?
7 MR. SIMMER: Exhibit 11,
8 yes.
9 BY MR. SIMMER:
10 Q. This was a record that was
11 created reflecting the fact that all of
12 these shipments had been shipped, right?
13 MS. McENROE: Objection to
14 form.
15 THE WITNESS: Yes, sir.
16 BY MR. SIMMER:
17 Q. And you got these reports
18 monthly; is that correct?
19 A. I honestly do not recall how
20 frequently I got them.
21 Q. But you received them
22 yourself, right?
23 A. I did.
24 Q. Did you look at them when

Page 261

1 you received them?
2 A. Yes, I did.
3 Q. Did you ever see any order
4 that was flagged as being a suspicious
5 order and that was not shipped at all and
6 then reported to the DEA?
7 MS. McENROE: Objection to
8 form.
9 THE WITNESS: I do not
10 recall ever seeing that.
11 BY MR. SIMMER:
12 Q. Do you recall ever, as a
13 part of this threshold log process, the
14 identification of any order that was
15 reported to the DEA?
16 MS. McENROE: Objection to
17 form.
18 THE WITNESS: I do not.
19 BY MR. SIMMER:
20 Q. And just to clarify too,
21 what we're seeing in terms of the
22 records -- we went through several of
23 them here -- that's the entire record to
24 reflect what happened in terms of due

Page 262

1 diligence for these orders that were
2 potentially excessive, right?
3 MS. McENROE: Objection to
4 form.
5 THE WITNESS: I -- I would
6 assume so.
7 BY MR. SIMMER:
8 Q. Okay. So you assume so.
9 You're saying that you don't know? Is
10 that what you're saying?
11 A. Again, I don't -- I never
12 worked at the distribution center, so I
13 am assuming this is all they did prior to
14 shipping the drugs.
15 Q. I'm just trying to clarify.
16 Is there any other due diligence record
17 that was created about these orders other
18 than these lines that are reflected on
19 this threshold log?
20 MS. McENROE: Objection to
21 form. Asked and answered.
22 THE WITNESS: Not that I'm
23 aware of.
24 BY MR. SIMMER:

Page 263

1 Q. Sir, you testified earlier
2 that the DEA had commented on just how
3 good and solid your program was, right?
4 A. Yes, sir.
5 Q. When did they tell you that?
6 A. 2005, 2009. And that would
7 be the Baltimore office that came in to
8 do an inspection of Perryman.
9 Q. And who was that?
10 A. I do not recall their names.
11 Q. Was it included in the
12 report in writing?
13 MS. McENROE: Objection to
14 form.
15 THE WITNESS: The DEA did
16 not issue a report because there
17 were no findings. They did a
18 recap with the entire pharmacy
19 staff, the general manager of the
20 building, and myself complimenting
21 on us -- complimenting us and
22 telling us -- quite frankly, their
23 exact words were, you should be
24 the gold standard for other

Page 264

1 wholesale distributors to follow.
2 BY MR. SIMMER:
3 Q. So -- but there's no written
4 report to reflect those statements,
5 right?
6 A. That's correct. They only
7 issue a report if there's a finding.
8 (Document marked for
9 identification as Exhibit Rite Aid
10 Mitchell-12.)
11 BY MR. SIMMER:
12 [REDACTED]
13 [REDACTED]
14 [REDACTED]
15 [REDACTED]
16 [REDACTED]
17 [REDACTED]
18 [REDACTED]
19 [REDACTED]
20 [REDACTED]
21 [REDACTED]
22 [REDACTED]
23 [REDACTED]
24 [REDACTED]

Page 265

1 [REDACTED]
2 [REDACTED]
3 [REDACTED]
4 [REDACTED]
5 [REDACTED]
6 [REDACTED]
7 [REDACTED]
8 [REDACTED]
9 [REDACTED]
10 [REDACTED]
11 [REDACTED]
12 [REDACTED]
13 [REDACTED]
14 [REDACTED]
15 [REDACTED]
16 [REDACTED]
17 [REDACTED]
18 [REDACTED]
19 [REDACTED]
20 [REDACTED]
21 [REDACTED]
22 [REDACTED]
23 [REDACTED]
24 [REDACTED]

Page 266

[REDACTED]

Page 268

[REDACTED]

Page 267

[REDACTED]

Page 269

[REDACTED]

Page 270

Page 272

Page 271

Page 273

Page 274

Page 276

Page 275

Page 277

Page 278

Page 280

Page 279

Page 281

Page 282

[REDACTED]

Page 284

[REDACTED]

19 BY MR. SIMMER:
20 Q. But I think it is your
21 testimony -- I've asked you several
22 times, just to confirm -- you don't know
23 of any suspicious orders that were ever
24 reported at all, right?

Page 283

[REDACTED]

Page 285

1 MS. McENROE: Objection to
2 form.
3 THE WITNESS: That is
4 correct.
5 BY MR. SIMMER:
6 Q. Besides the work that you've
7 talked about so far today that the
8 company did with Buzzeeo, did the company
9 consult with any other third-party
10 companies about its suspicious order
11 monitoring program?
12 A. I'm unaware if they did.
13 Q. Buzzeeo would be the one that
14 you're aware of that the company worked
15 with on a regular basis, right?
16 MS. McENROE: Objection to
17 form.
18 THE WITNESS: From a
19 distribution center standpoint, he
20 is the only one that I can recall
21 working with. What they did on
22 the stores and on the retail side,
23 I have no -- no knowledge of that.
24 BY MR. SIMMER:

Page 286

1 Q. And how frequently did
2 Buzzeo work with the distribution centers
3 in this consulting capacity?
4 A. As far as conducting audits,
5 probably just the first year or so.
6 Maybe year or two years of my employment.
7 Afterwards, we used him
8 very, very rarely to write SOPs and to
9 assist with the VAWD SOPs that were
10 written, I believe in 2007. But as far
11 as coming and conducting audits, it was,
12 you know, probably nothing after 2002.
13 Q. So Buzzeo never came back
14 after 2002 that you recall to audit the
15 company's suspicious order monitoring
16 program, right?
17 A. Not that I recall, correct.
18 Q. Okay. And you do recall
19 that they actually assisted in writing
20 SOPs, right?
21 A. Yes, that is correct.
22 Q. And that's with regard to
23 the Indiana VAWD procedure that you
24 talked about earlier, right?

Page 287

1 [REDACTED]
2 [REDACTED]
3 [REDACTED]
4 [REDACTED]
5 [REDACTED]
6 [REDACTED]
7 [REDACTED]
8 [REDACTED]
9 [REDACTED]
10 [REDACTED]
11 [REDACTED]
12 [REDACTED]
13 [REDACTED]
14 [REDACTED]
15 [REDACTED]
16 [REDACTED]
17 [REDACTED]
18 [REDACTED]
19 [REDACTED]
20 [REDACTED]
21 [REDACTED]
22 [REDACTED]
23 [REDACTED]
24 [REDACTED]

Page 288

1 acronym stands for; is that right?
2 A. That's correct.
3 Q. And then the second thing
4 they did was to help prepare SOPs that we
5 just looked at, the excerpts that we just
6 went over, right?
7 A. That's correct.
8 Q. Is there anything else that
9 Buzzeo did to assist the company in
10 looking at a suspicious order monitoring
11 program?
12 A. Not that I recall.
13 (Document marked for
14 identification as Exhibit Rite Aid
15 Mitchell-13.)
16 BY MR. SIMMER:
17 [REDACTED]
18 [REDACTED]
19 [REDACTED]
20 [REDACTED]
21 [REDACTED]
22 [REDACTED]
23 [REDACTED]
24 [REDACTED]

Page 289

1 [REDACTED]
2 [REDACTED]
3 [REDACTED]
4 [REDACTED]
5 [REDACTED]
6 [REDACTED]
7 [REDACTED]
8 [REDACTED]
9 [REDACTED]
10 [REDACTED]
11 [REDACTED]
12 [REDACTED]
13 [REDACTED]
14 [REDACTED]
15 [REDACTED]
16 [REDACTED]
17 [REDACTED]
18 [REDACTED]
19 [REDACTED]
20 [REDACTED]
21 [REDACTED]
22 [REDACTED]
23 [REDACTED]
24 [REDACTED]

Page 290

[REDACTED]

Page 291

[REDACTED]

24 Q. Are these the typical areas

Page 292

1 that the Buzzeo conferences included?

2 MS. McENROE: Objection to

3 form.

4 BY MR. SIMMER:

5 Q. As you understand it?

6 A. They changed from conference

7 to conference. But any update on DEA

8 regulations or expectations, they

9 typically covered current events.

10 Q. Would you be the only person

11 from the company that would have

12 regularly attended these conferences?

13 MS. McENROE: Objection to

14 form.

15 THE WITNESS: Not

16 necessarily.

17 BY MR. SIMMER:

18 Q. Who else at the company

19 would have attended these conferences

20 besides yourself?

21 A. Janet Hart has attended. I

22 think Andy Palmer has attended, DEA

23 pharmacy. Again, this is distribution

24 I'm speaking of. Pharmacy department

Page 293

1 managers have attended. DEA coordinators

2 have attended.

3 Q. And did the company try to

4 always have somebody at these

5 conferences?

6 MS. McENROE: Objection to

7 form.

8 THE WITNESS: No, sir.

9 BY MR. SIMMER:

10 Q. So were there times when no

11 one attended?

12 A. That would be correct, sir.

13 Q. And why would no one attend

14 a conference if it was something that

15 conveyed this kind of current information

16 to you?

17 MS. McENROE: Objection to

18 form.

19 THE WITNESS: That, I can't

20 answer.

21 BY MR. SIMMER:

22 Q. Were there instances where

23 you asked permission to attend that you

24 were not given permission to attend?

Page 294

1 A. Not that I recall.
2 Q. So every time you asked, you
3 were generally given permission to
4 attend?
5 A. I believe that to be true.
6 Q. Do you know whether you
7 attended this particular one in
8 November 2009?
9 A. I believe I did.
10 (Document marked for
11 identification as Exhibit Rite Aid
12 Mitchell-14.)
13 BY MR. SIMMER:
14 [REDACTED]
15 [REDACTED]
16 [REDACTED]
17 [REDACTED]
18 [REDACTED]
19 [REDACTED]
20 [REDACTED]
21 [REDACTED]
22 [REDACTED]
23 [REDACTED]
24 [REDACTED]

Page 295

1 [REDACTED]
2 [REDACTED]
3 [REDACTED]
4 [REDACTED]
5 [REDACTED]
6 [REDACTED]
7 [REDACTED]
8 [REDACTED]
9 [REDACTED]
10 [REDACTED]
11 [REDACTED]
12 [REDACTED]
13 [REDACTED]
14 [REDACTED]
15 [REDACTED]
16 [REDACTED]
17 [REDACTED]
18 [REDACTED]
19 [REDACTED]
20 [REDACTED]
21 [REDACTED]
22 [REDACTED]
23 [REDACTED]
24 [REDACTED]

Page 296

1 [REDACTED]
2 [REDACTED]
3 [REDACTED]
4 [REDACTED]
5 [REDACTED]
6 [REDACTED]
7 [REDACTED]
8 [REDACTED]
9 [REDACTED]
10 [REDACTED]
11 [REDACTED]
12 [REDACTED]
13 (Document marked for
14 identification as Exhibit Rite Aid
15 Mitchell-15.)
16 BY MR. SIMMER:
17 Q. We just wanted to make sure,
18 as we say it, we're on the same page,
19 that -- because part of it was cut off,
20 we just want to make sure that we could
21 show you the entire page, rather than a
22 cutoff page.
23 MS. McENROE: And Scott,
24 could you mark that as Exhibit 15?

Page 297

1 MR. SIMMER: I will mark
2 that, I'm sorry.
3 MS. McENROE: Yes --
4 THE WITNESS: Mine is marked
5 as Exhibit 15.
6 BY MR. SIMMER:
7 Q. And I'm sorry, that's
8 exhibit?
9 A. 15.
10 Q. 15.
11 A. Yes, sir.
12 Q. I'll identify it for the
13 record as a page off the Cegedim website
14 that -- that was the identical link as
15 was in Ms. Birklin's e-mail to -- to the
16 witness. And it's entitled Suspicious
17 Order Monitoring Programs.
18 If you'd just compare at
19 least what you can see of the two, it is
20 identical content?
21 So when -- under -- you see
22 in the middle of this, this particular
23 exhibit, it says, "Confidence in
24 compliance."

Page 302

[REDACTED]

Page 304

[REDACTED]

Page 303

[REDACTED]

Page 305

[REDACTED]

[REDACTED] R: Yeah, we're not going to re-mark it.

Page 306

Page 308

Page 307

Page 309

Page 310

Page 312

Page 311

Page 313

Page 314

Page 316

5 Q. Did you ever bring any
6 Buzzco or any third-party vendors to look
7 at the Rite Aid suspicious order
8 monitoring program to do an audit of any
9 kind?

10 MS. McENROE: Objection to
11 form.

12 THE WITNESS: Ron had done
13 audits in the past. I did not
14 bring anybody on after 2009 to
15 conduct audits on the program.

16 BY MR. SIMMER:

17 Q. I think you said that the
18 last audit he had done was in 2002,
19 right?

20 A. That's correct.

21 Q. He hadn't done any since
22 then, right?

23 A. Not that I recall no.

24 Q. And as far as you know,

Page 315

Page 317

1 nobody else, Mr. Buzzeeo or anybody else,
2 had come in and done an audit of the
3 company's suspicious order monitoring
4 program since 2002, right?

MS. McENROE: Objection to
form.

THE WITNESS: Other than
DEA.

⁹ BY MR. SIMMER:

10 Q. Other than what you talked
11 about earlier, right?

12 A. Yes, sir.

13 Q. Okay. And which there was
14 no written record though, right?

15 MS. McENROE: Objection to
16 form.

17 THE WITNESS: That is
18 correct, sir.

(Document marked for
identification as Exhibit Rite Aid
Mitchell-18.)

22 BY MR. SIMMER:

Page 318

[REDACTED]

Page 320

[REDACTED]

Page 319

[REDACTED]

Page 321

[REDACTED]

12 Q. Okay.

13 MR. SIMMER: Can we go off

14 the record.

15 THE VIDEOGRAPHER: The time

16 is now 3:51 p.m. We're going off

17 the record.

18 (Short break.)

19 THE VIDEOGRAPHER: The time

20 is now 4:07 p.m.

21 We are back on the record.

22 MR. SIMMER: I have no

23 further questions of the witness

24 at this time. I would, however,

Page 322

1 reserve any kind of further
2 questioning, assuming you do some
3 cross.
4 But in addition, we reserve
5 the right to come back and conduct
6 further examination given the
7 lateness of the production last
8 night. We have some additional
9 documents that we haven't had a
10 chance to incorporate in today's
11 examination. Anything in there
12 that we may request to come back
13 in a limited additional
14 examination.
15 MS. McENROE: Is that the 17
16 pages from last night or are you
17 talking about something else?
18 MR. SIMMER: I don't know
19 how many pages there are -- I
20 don't know how many pages were
21 produced, but there were some
22 additional pages that we got last
23 night.
24 MS. McENROE: Understood.

Page 323

1 We -- we have a different view of
2 it, but we can deal with that if
3 it becomes an issue.
4 I have a couple follow-up
5 questions for the witness. Is it
6 okay if I do it sitting here, or
7 do you want me to switch?
8 I'm happy to do it from
9 here.
10 MR. SIMMER: If you just
11 want to do it from there, that's
12 great.
13 MS. McENROE: Okay, great.
14 - - -
15 EXAMINATION
16 - - -
17 BY MS. McENROE:
18 Q. Hi, Mr. Mitchell. I'm Elisa
19 McEnroe. I represent Rite Aid and I'm
20 here on your behalf today as well. You
21 understand that?
22 A. Yes, I do.
23 Q. I have just a couple
24 questions for you. And we appreciate you

Page 324

1 being here.
2 When did you cease your
3 employment with Rite Aid?
4 A. January 2012.
5 Q. That was a number of years
6 ago, correct?
7 A. Seven years ago last Friday,
8 correct.
9 Q. And throughout the
10 discussion today there have been some
11 references to the concept of an excessive
12 order monitoring program and discussion
13 of a suspicious order monitoring program.
14 Do you, generally speaking, recall those
15 discussions?
16 A. Yes, I do.
[REDACTED]

Page 325

[REDACTED]

Page 326

1 Q. Could you explain for me,
2 just to make sure the record is clear,
3 the relationship, if any, between
4 excessive order monitoring and suspicious
5 order monitoring?
6 A. Excess --
7 MR. SIMMER: Objection to
8 form. Asked and answered.
9 BY MS. McENROE:
10 Q. You may answer.
11 A. Okay. I'm sorry. Excessive
12 is anything out of the norm with size.
13 Where suspicious order monitoring,
14 suspicious was anything that, regardless
15 of size, frequency of the order, and an
16 order pattern that would be different
17 from a normal distribution.
[REDACTED]

Page 327

[REDACTED]

18 Q. Can you keep Exhibit 12 out,
19 but also at the same time take out
20 Exhibit 7 please.
21 You'll recall this is a
22 document you went over with counsel
23 earlier. And I'm not going to try and
24 take very much time with it. But it is a

Page 328

1 copy of a Rite Aid Corporation DC
2 self-assessment program regulatory
3 checklist.
4 Do you see that?
5 A. Yes.
6 Q. Okay. I'd like to direct
7 your attention, and I know we had a
8 little bit of trouble with which page is
9 which. But I'm going to go with the
10 numbers at the bottom that say like 2 of
11 16, 3 of 16. Do you see that?
12 A. Yes.
13 Q. Could you please flip to 3
14 of 16?
15 And at the top of that
16 document, do you see that, in the upper
17 right-hand corner, it says A --
18 MR. SIMMER: Just a second,
19 Elisa. Where are you?
20 MS. McENROE: Oh, I'm just
21 trying to --
22 MR. SIMMER: No, but these
23 numbers you're referring to are
24 not on -- on the exhibits we're

Page 329

1 looking at. So I don't know what
2 we're --
3 MS. McENROE: Oh, you know
4 what, mine is printed out
5 differently than yours. So maybe
6 I can try and identify the page
7 differently, if that makes sense.
8 The -- the page I was trying
9 to get to has A.08.02 at the top.
10 MR. SIMMER: Okay. Thank
11 you.
12 MS. McENROE: Great. Do you
13 have -- do you have it?
14 MR. SIMMER: Mm-hmm.
15 BY MS. McENROE:
16 Q. Okay. And are you there, do
17 you have it?
18 A. Yes, I am.
19 Q. Okay.
20 MS. McENROE: And we are all
21 literally on the same page I hope.
22 BY MS. McENROE:
[REDACTED]

Page 330

Page 332

[illegible]

21 MR. SIMMER: Objection,
22 form.

23 Are you testifying for the
24 witness?

Age Group	Percentage
18-29	88%
30-49	78%
50-69	85%
70+	58%
18-29	72%
30-49	78%
50-69	68%
70+	42%

8 Q. Okay. You can set those two
9 aside.

10 MS. McENROE: Can I get two
11 exhibit stickers.

(Document marked for
identification as Exhibit Rite Aid
Mitchell-19.)

¹⁵ BY MS. McENROE:

16 Q. So the copying is not so
17 great. It's a little bit dark. But I'm
18 handing you what I marked as Exhibit 19.

19 Do you remember a line of
20 questioning earlier where counsel was
21 asking you about DEA audits at the
22 Perryman facility?

23 MR. SIMMER: Objection to
24 form. Misstates prior testimony.

Page 331

Page 333

1 MS. McENROE: I'm not, I'm
2 asking him a question.

3 MR. SIMMER: A leading
4 question of your own witness?

5 MS. McENROE: Your objection
6 is noted for the record.

7 Your objection is noted for
8 the record. Thank you.

⁹ BY MS. McENROE:

10 Q. You may answer.

11 MR. SIMMER: Objection to
12 form.

13 THE WITNESS: That's
14 correct.

¹⁵ BY MS. McENROE:

Age Group	Percentage of Respondents
18-29	90%
30-39	85%
40-49	80%
50-59	75%
60 and older	60%

¹ BY MS. McENROE:

2 Q. Do you remember at all today
3 discussing DEA auditing at the Perryman
4 facility?

5 MR. SIMMER: Objection to
6 form.

⁷ BY MS. McENROE:

8 Q. You may answer.

9 A. Yes, I do.

10 Q. Do you remember a question
11 about whether there was any written
12 record of those audits?

13 A. Yes, I do.

14 Q. Do you remember what you
15 testified?

16 MR. SIMMER: Objection to
17 form. The record speaks for
18 itself.

¹⁹ BY MS. McENROE:

20 Q. You may answer.

21 MR. SIMMER: Testimony
22 speaks for itself.

23 BY MS. McENROE:

24 Q. You still may answer.

Page 334

1 A. The DEA does not provide
2 documentation unless there are findings.
3 [REDACTED]
4 [REDACTED]
5 [REDACTED]
6 [REDACTED]
7 [REDACTED]
8 [REDACTED]
9 [REDACTED]
10 [REDACTED]
11 [REDACTED]
12 [REDACTED]
13 [REDACTED]
14 [REDACTED]
15 MR. SIMMER: Just one
16 [REDACTED]
17 [REDACTED]
18 [REDACTED]
19 [REDACTED]
20 [REDACTED]
21 [REDACTED]
22 [REDACTED]
23 [REDACTED]
24 [REDACTED]

Page 335

1 question, and he answered it. I
2 was asking him what the document
3 is. And he just described it to
4 me. So I'm going to ask some more
5 follow-up questions, and if you
6 have questions after, you're
7 welcome to ask.
8 MR. SIMMER: Okay. I tell
9 you what. Move to strike.
10 Nonresponsive. The question is,
11 "What does the exhibit say?" And
12 then he answered something
13 completely different. Move to
14 strike. Nonresponsive.
15 MS. McENROE: All right.
16 Well, I disagree with your motion,
17 but we can deal with that at a
18 later date.
19 BY MS. McENROE:
20 [REDACTED]
21 [REDACTED]
22 [REDACTED]
23 [REDACTED]
24 [REDACTED]

Page 336

1 [REDACTED]
2 [REDACTED]
3 [REDACTED]
4 [REDACTED]
5 [REDACTED]
6 [REDACTED]
7 [REDACTED]
8 [REDACTED]
9 [REDACTED]
10 [REDACTED]
11 [REDACTED]
12 [REDACTED]
13 [REDACTED]
14 [REDACTED]
15 [REDACTED]
16 [REDACTED]
17 [REDACTED]
18 [REDACTED]
19 [REDACTED]
20 [REDACTED]
21 [REDACTED]
22 [REDACTED]
23 [REDACTED]
24 [REDACTED]

Page 337

1 [REDACTED]
2 [REDACTED]
3 [REDACTED]
4 [REDACTED]
5 [REDACTED]
6 [REDACTED]
7 [REDACTED]
8 [REDACTED]
9 [REDACTED]
10 [REDACTED]
11 [REDACTED]
12 [REDACTED]
13 [REDACTED]
14 [REDACTED]
15 [REDACTED]
16 [REDACTED]
17 [REDACTED]
18 BY MS. McENROE:
19 Q. Would you have expected, in
20 your experience, to have gotten a written
21 confirmation from DEA of their outcome of
22 this audit?
23 MR. SIMMER: Objection to
24 form. Leading.

Page 338

1 THE WITNESS: No, I would
2 not.
3 (Document marked for
4 identification as Exhibit Rite Aid
5 Mitchell-20.)
6 BY MS. McENROE:
7 [REDACTED]
8 [REDACTED]
9 [REDACTED]
10 [REDACTED]
11 [REDACTED]
12 [REDACTED]
13 [REDACTED]
14 [REDACTED]
15 [REDACTED]
16 [REDACTED]
17 [REDACTED]
18 [REDACTED]
19 [REDACTED]
20 [REDACTED]
21 [REDACTED]
22 [REDACTED]
23 [REDACTED]
24 [REDACTED]

Page 339

1 [REDACTED]
2 [REDACTED]
3 [REDACTED]
4 [REDACTED]
5 [REDACTED]
6 [REDACTED]
7 [REDACTED]
8 [REDACTED]
9 [REDACTED]
10 [REDACTED]
11 [REDACTED]
12 [REDACTED]
13 [REDACTED]
14 [REDACTED]
15 [REDACTED]
16 [REDACTED]
17 [REDACTED]
18 [REDACTED]
19 [REDACTED]
20 [REDACTED]
21 [REDACTED]
22 [REDACTED]
23 [REDACTED]
24 [REDACTED]

Page 340

1 [REDACTED]
2 MS. McENROE: I have nothing
3 further.
4 - - -
5 EXAMINATION
6 - - -
7 BY MR. SIMMER:
8 Q. Sir, could you look back at
9 your e-mail summary in Exhibit 19 that
10 you were just asked some questions about?
11 And so this is
12 September 2005, correct?
13 A. Yes, sir.
14 Q. Is there anywhere in your
15 summary that you put together here a
16 reference to the fact that the DEA had
17 actually audited the suspicious order
18 monitoring program?
19 A. I did not, no.
20 Q. Is there anywhere in your
21 summary that the DEA audited the
22 excessive order monitoring program?
23 A. I did -- no, sir, there is
24 not.

Page 341

1 Q. Look at Exhibit 20. Now,
2 you didn't create this record.
3 Mr. Peifley did, right?
4 A. Yes, sir.
5 Q. So these are his words, not
6 yours, right?
7 A. That's correct, sir.
8 Q. And in his summary, did he
9 summarize anywhere that the DEA audited
10 the Rite Aid excessive order monitoring
11 program?
12 A. No, sir.
13 Q. In his words anywhere, did
14 he say that the DEA audited the Rite Aid
15 suspicious order monitoring program?
16 A. No, sir.
17 MR. SIMMER: No further
18 questions.
19 MS. McENROE: I just have a
20 quick follow-up.
21 - - -
22 EXAMINATION
23 - - -
24 BY MS. McENROE:

<p style="text-align: right;">Page 342</p> <p>1 Q. Looking at both Exhibits 19 2 and 20, do you have a recall of an 3 understanding of whether the DEA actually 4 would have audited, looked at, the 5 excessive or suspicious order monitoring 6 policies as part of these audits? 7 MR. SIMMER: Objection to 8 form. Document speaks for itself. 9 BY MS. McENROE: 10 Q. You may answer. 11 A. I can only speak to the 12 audit in 2005 because I was physically 13 there during that audit. It was a very 14 comprehensive audit and, yes, they did 15 review the excessive order monitoring 16 program as well as the documents that the 17 DC was utilizing upon calling stores. 18 2009, I have no recollection 19 of that at all. 20 Q. Do you believe -- do you 21 have any reason to believe that they did 22 not audit the excessive or suspicious 23 order monitoring programs in 2009? 24 MR. SIMMER: Objection as to</p>	<p style="text-align: right;">Page 344</p> <p>1 have reviewed in order to evaluate the 2 excessive order monitoring program, 3 right? 4 MS. McENROE: Objection to 5 form. 6 THE WITNESS: I recall them 7 looking at all of our SOPs as well 8 as the log that was presented 9 today as we were talking about, 10 you know, what the DCs do. 11 BY MR. SIMMER: 12 Q. And as you've testified 13 multiple times today, at no time had 14 there been ever a report of any 15 suspicious orders of any kind, right? 16 MS. McENROE: Objection to 17 form. 18 THE WITNESS: That's 19 correct. As far as I know, that's 20 correct. 21 BY MR. SIMMER: 22 Q. So those logs only reflect 23 some suspicious orders -- excuse me -- 24 strike that.</p>
<p style="text-align: right;">Page 343</p> <p>1 form. 2 THE WITNESS: I have no 3 reason to believe, but again, I 4 have no knowledge that they did or 5 they didn't. 6 MS. McENROE: Thank you. No 7 further questions. 8 - - - 9 EXAMINATION 10 - - - 11 BY MR. SIMMER: 12 Q. Just a couple follow-ups. 13 You said -- you just answered that you 14 believe they did in 2005. 13 years ago, 15 that's your recollection that they did, 16 right? 17 A. Yes, sir. 18 Q. And the records that they 19 would have reviewed, those would have 20 been those excessive order logs we looked 21 at, right? 22 A. Yes, sir. 23 Q. There's nothing else in the 24 distribution center logs that they could</p>	<p style="text-align: right;">Page 345</p> <p>1 Those logs reflect a series 2 of potentially excessive orders where a 3 call was made to the pharmacy, and some 4 of which were increased over the 5 threshold, others were not, right? 6 MS. McENROE: Objection to 7 form. 8 THE WITNESS: I don't recall 9 any being increased. But yes, the 10 document is what you are 11 referencing. 12 BY MR. SIMMER: 13 Q. Well, we looked at some of 14 the examples in the one log we looked at 15 where the pharmacist said, "I need the 16 entire shipment," right? 17 A. That's correct. 18 Q. And so that was approved in 19 those instances, right? 20 MS. McENROE: Objection to 21 form. 22 THE WITNESS: It was not 23 above the threshold. 24 BY MR. SIMMER:</p>

<p style="text-align: right;">Page 346</p> <p>1 Q. And in some of those 2 examples they were, right? 3 MS. McENROE: Objection to 4 form. 5 THE WITNESS: There was one, 6 if -- if it's the one that you had 7 highlighted that I recall, maybe 8 fourth from the bottom, that was 9 already an exception. 10 So that was -- that was a 11 little bit different than the rest 12 of these. 13 BY MR. SIMMER: 14 Q. But the point here is that 15 the only thing the DEA actually looked at 16 were those records, right? 17 MS. McENROE: Objection to 18 form. 19 THE WITNESS: That would be 20 correct. 21 MR. SIMMER: Yeah, nothing 22 further. 23 MS. McENROE: I have nothing 24 further. Thank you so much,</p>	<p style="text-align: right;">Page 348</p> <p>1 2 CERTIFICATE 3 4 5 I HEREBY CERTIFY that the 6 witness was duly sworn by me and that the 7 deposition is a true record of the 8 testimony given by the witness. 9 10 It was requested before 11 completion of the deposition that the 12 witness, KEVIN MITCHELL, have the 13 opportunity to read and sign the 14 deposition transcript. 15 16 MICHELLE L. GRAY, 17 A Registered Professional 18 Reporter, Certified Shorthand 19 Reporter, Certified Realtime 20 Reporter and Notary Public 21 Dated: January 21, 2019 22 23 (The foregoing certification 24 of this transcript does not apply to any reproduction of the same by any means, unless under the direct control and/or supervision of the certifying reporter.)</p>
<p style="text-align: right;">Page 347</p> <p>1 Mr. Mitchell. 2 MR. SIMMER: Thank you. 3 THE VIDEOGRAPHER: The time 4 is now 4:26 p.m. This concludes 5 today's deposition. We're going 6 off the record. 7 (Excused.) 8 (Deposition concluded at 9 approximately 4:26 p.m.) 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24</p>	<p style="text-align: right;">Page 349</p> <p>1 INSTRUCTIONS TO WITNESS 2 3 Please read your deposition 4 over carefully and make any necessary 5 corrections. You should state the reason 6 in the appropriate space on the errata 7 sheet for any corrections that are made. 8 After doing so, please sign 9 the errata sheet and date it. 10 You are signing same subject 11 to the changes you have noted on the 12 errata sheet, which will be attached to 13 your deposition. 14 It is imperative that you 15 return the original errata sheet to the 16 deposing attorney within thirty (30) days 17 of receipt of the deposition transcript 18 by you. If you fail to do so, the 19 deposition transcript may be deemed to be 20 accurate and may be used in court. 21 22 23 24</p>

Page 350

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Page 351

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2 ACKNOWLEDGMENT OF DEPONENT

3

4 I, _____, do

5 hereby certify that I have read the

6 foregoing pages, 1 - 352, and that the

7 same is a correct transcription of the

8 answers given by me to the questions

9 therein propounded, except for the

10 corrections or changes in form or

11 substance, if any, noted in the attached

12 Errata Sheet.

13

14

15 _____

16 KEVIN MITCHELL DATE

17

18

19 Subscribed and sworn

20 to before me this

21 _____ day of _____, 20____.

22 My commission expires: _____

23 _____

24 Notary Public

Page 352

1 LAWYER'S NOTES

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